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REDUCTION-IN-FORCE SYSTEM IN THE FEDERAL GOVERNMENT

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Mr. JOHNSTON of South Carolina, from the Committee on Post Office and Civil Service, submitted the following

REPORT

[Pursuant to S. Res. 53]

The subcommittee on Federal Manpower Policies was authorized and directed by Senate Resolution 53, approved February 19, 1951, to conduct a study into the manpower and personnel policies and practices of the Federal Government with a view to the formulation of policies for the most effective utilization of civilian personnel during the period of the national emergency.

SUMMARY

One of the most important studies by the subcommittee has been its inquiry into the layoff policies and practices in Government. Management in both Government and industry recognizes that layoff policies exert a substantial impact upon its ability to recruit qualified workers, affect the utilization of employees on the job, and determine whether it is able to maintain an efficient and productive working force. A defective system, on the other hand, generally results in high administrative costs and a substantial loss in terms of production.

In the subcommittee's examination of this area of civilian personnel management, we have gathered evidence of excessive waste of both money and manpower. Reduction-in-force procedures are unnecessarily complex. The formula for determining the priority of separations divides employees into no less than 23 categories. Despite the intricate layoff formula, moreover, Government is often forced to separate its more experienced and efficient employees while retaining workers of lesser seniority and skill. Employee efficiency is of virtually no weight in selecting employees to be retained on the job. In addition, supervisors and administrators have no discretion as to who will remain and who will go when layoffs occur. This has created, in

turn, a serious problem in manpower conservation: supervisors are reluctant to economize in the use of personnel and chance invoking reduction-in-force procedures which may very well deprive them of the services of their best employees. Reassignment rights are widescale and during each reduction in force set into motion a chain of "bumping" or displacement actions which successively shift employees from job to job, division to division, and even bureau to bureau. The result of "bumping" is frequently a "restaffing" of the agency as employees are shuffled into "new" jobs. The effects of the formula and the "bumping" procedure combine to create widespread confusion, lowered morale, and insecurity among Federal employees. As a consequence, hundreds of capable workers quit their agencies during reductions in force and seek employment elsewhere. The personnel turnover involved reaches such proportions that agencies are often forced to conduct intensive recruiting campaigns on top of reductions in force. Evidence shows, moreover, that due to its basic layoff policies and practices, Government frequently cannot attract new workers or rehire its former employees.

The costs involved in reductions in force, in terms of both the administrative expense and lost production, are clearly excessive. Thousands of dollars have been spent laying off a single Government worker. One reduction in force, in which 30 employees were finally separated, cost the taxpayers almost $450,000. Measured Government-wide, these costs mean that the Federal Government is wasting thousands of man-hours and spending millions of dollars every year laying off employees.

The subcommittee is convinced, as a consequence of its study, that no problem in personnel administration in Government today so challenges the ingenuity of responsible officials as the devising of an efficient and equitable procedure for handling reductions in force. Improvement in this area will do much more than save taxpayer dollars, moreover. It will open the way for employees to make their maximum contribution in the public service, while experiencing substantial job security and individual dignity in the employ of their Federal Government.

Nature of the Problem

A "reduction in force," as the term is used in Government, is that action taken by a Federal department or agency to involuntarily separate or "layoff" employees for such reasons as a decrease in work, cut in appropriations, ceilings on the number of employees, or internal reorganizations. Separation by reduction in force, therefore, is the result of the status of the agency's business and in no way reflects upon the ability, the performance, or the character of the employees involved. Thus, it is important to distinguish the layoff procedure from the action taken to "fire" employees for either inefficiency or for cause.

The basic problem in a reduction in force is essentially a problem of selection. Every action that reduces the quantity of available work, or the total number of employees which an agency may retain, involves two decisions that must be solved simultaneously: Who shall be laid off, and who shall be retained? In industry, layoff provisions of union agreements control the order in which employees will be separated.[1]

[1] For an excellent discussion of layoff practices in industry, see Layoff Policies and Practices, 1950, Industrial Relations Section, Department of Economics and Social Institutions, Princeton University, Princeton, N. J.

These agreements embody, almost universally, the principle of seniority. That is, the selection of employees to be separated is governed by the individual's length of service relative to that of his fellow employees. In firms without a union contract, the selection of employees to be laid off is entirely within the discretion of management.

In Government the problem of selection is far more complex. Indeed, the concepts which control the order of layoffs in Federal departments and agencies are found in statutes and Executive orders which together comprise much of the history of our merit system. The objective of the reduction-in-force system in Government must be the retention of the best qualified employees, with the most judicious balance being maintained between employee skills, length of service, and type of appointment. Moreover, superimposed upon these three essentials to sound public personnel management is the Nation's obligation to its veterans. Much of the attention of this report is given to determining whether Government has been successful in attaining such a "judicious balance," and finally, whether it is able currently to retain experienced and efficient workers in the Federal service.

The second major problem in reductions in force in Government is that involved in the reassignment of remaining employees on the basis of their relative "retention standing," i. e., the priority of each employee for retention measured in terms of type of appointment, veterans' preference, length of service, and efficiency ratings.

In this process, employees with high retention standing displace or "bump" workers with lower retention standing from jobs that continue in operation. The result is a widespread reshuffling of employees within an agency by means of successive displacement actions. The procedure leaves in its wake scores of employees who have been reassigned and demoted by displacement, often occupying jobs with only the minimum qualifications. The costs of reassignment are excessive. They involve (1) the administrative costs of processing the transfers and demotions, (2) the costs of retraining workers who are transferred into "new" jobs within the agency, and (3) the cost of the lost production during the reassignment process. This report deals with the displacement problem in detail and offers certain recommendations for improvement.

The third important problem in reductions in force in Government is the absence of even the minimum support for employee morale and job security. Workers are not currently assured of being rehired in the event their jobs are reestablished, nor are they convinced that agencies make their best effort to place them in other departments where their services may be needed. Federal employees do not have the benefits of either unemployment compensation or severance pay, and the leave they may accumulate is restricted by recent legislation. The result is the separation of employees in reductions without even a minimum of financial security or "cushioning." Nevertheless, Government does have, and it must have, a keen interest in promoting and maintaining the morale and job security of its workers, for both the quantity and quality of governmental services ultimately depend upon employee attitudes and outlook.

We believe that a major overhaul of the entire reduction-in-force system is needed and that, specifically, is the job we have attempted in this report.

The subcommittee's study is based on the actual operating experiences in departments and agencies of the executive branch, as reported by the agencies themselves and as witnessed through first-hand observation during actual reductions-in-force periods. Our job has included an examination of both the substantive and procedural aspects of the layoff system, as well as a survey and appraisal of the man-hour and dollar costs involved. The subcommittee's findings and its proposals for improvement are found at the conclusion of each respective part.

SUBCOMMITTEE NOTE

The subcommittee is glad to report that the United States Civil Service Commission has issued new regulations, effective February 15, 1953, covering and revising certain of the reduction-in-force procedures.[2] The revised procedures reduce the number of retention categories from 23 to 6 and eliminate reassignment or "bumping" rights of indefinite employees. It is provided, also, that all strictly temporary workers and all employees with current "unsatisfactory" performance ratings will be dropped to the bottom of the retention register.

The subcommittee believes that the Commission's action is a full step ahead in the job of overhauling Federal layoff procedures. It does, however, commend to the Commission proposals made in the accompanying report which would go considerably further in simplifying and improving the reduction-in-force system. Notably, we believe that the proposed revision of the retention formula, the revised placement methods, and the provision for advanced leave for displaced employees in the absence of unemployment compensation or severance pay, would greatly improve the reduction-in-force system in Government.

[2] See exhibit 14, "Proposed Revision of Retention Preference Regulations by the Civil Service Commission."

PART I

RETENTION PREFERENCE: THE PROBLEM OF DETERMINING WHICH EMPLOYEES WILL BE RETAINED IN THEIR JOBS

An examination of the basic factors controlling the order of layoffs in a reduction in force: Tenure, veterans' preference, seniority, and efficiency ratings

General

The basic statutory authority for controlling reductions in force in the Federal Government is the Veterans' Preference Act of 1944.[3] Section 12 of the act establishes the four factors which control an administrator when he is faced with the decision: Who shall be laid off, and who shall be retained? The solution that he ultimately reaches must be in strict compliance with the provisions of section 12, and any variance therefrom may result in an employee appeal to the United States Civil Service Commission. It is also of significance that the administrator in Government has virtually no discretion in selecting employees to be retained in their jobs, once the "competitive level", or types of jobs to be affected, is determined. The layoff provisions of the Veterans' Preference Act are quite explicit in this regard:

> SEC. 12. In any reduction in personnel in any civilian service of any Federal agency, competing employees shall be released in accordance with Civil Service Commission regulations which shall give due effect to tenure of employment, military preference, length of service and efficiency ratings: *Provided*, That the length of time spent in active service of the armed forces of the United States of each such employee shall be credited in computing length of total service: *Provided further*, That employees whose efficiency ratings are "good" or better shall be retained in preference to all other competing employees and that preference employees whose efficiency ratings are below "good" shall be retained in preference to competing nonpreference employees who have equal or lower efficiency ratings * * *.[4]

Thus, the four "retention factors" provided in the act to control the order in which employees are to be laid off in staff reductions are: (1) tenure of employment, (2) military preference, (3) length of service, and (4) efficiency ratings. Each of these factors have been interpreted and implemented in the Civil Service Commission's Retention Preference Regulations, issued to "carry into full effect the provisions, intent, and purpose of the act." [5] Experience under the act since its enactment in 1944, as supplemented in detail by the Commission, gives rise to certain questions which test its efficacy in operation. The answers to these questions, moreover, are of fundamental importance

[3] 5 U. S. C. 861.
[4] For a detailed examination of the congressional intent of the Veterans' Preference Act relating to reductions in force, see exhibit 1.
[5] 5 CFR (Supp. 1947), sec. 20.1 to 20.15, inclusive (exhibit 4).

in any effort to build and strengthen the merit system of the Federal Government. The questions are these:

(*a*) Is it now possible, when layoffs occur, to retain the most efficient and experienced employees in Government?

(*b*) Is seniority, or length of service, accorded adequate weight in determining who shall be retained?

(*c*) Is the preference assigned to veterans such an absolute preference that it is seriously detrimental to the quality of personnel in the Federal civil service?

(*d*) Is the grouping of employees by tenure of employment, i. e., by "type of appointment," for purposes of reduction in force the most realistic and beneficial method—with emphasis upon the most effective utilization of Federal manpower?

These questions must necessarily be considered in relation to another encompassing question: Does each of these factors exert relatively equal weight in the layoff process, or are certain of them of major and others of only minor importance in determining the retention preference of employees?

The following sections will consider these questions in the light of the role that each of the retention factors plays in establishing the retention preference of employees in reductions in force.

1. TENURE OF EMPLOYMENT AS A FACTOR IN REDUCTIONS IN FORCE

"Tenure of employment," as interpreted by the Civil Service Commission, has reference to the "type of appointment" the individual employee holds in the Federal service. It is one of the basic factors established in the Veterans' Preference Act of 1944 for controlling the order of layoffs in a reduction in force.

The term "tenure" as used in Federal personnel regulations and instructions means the period which an employee may reasonably expect to serve in the agency in which employed, and is necessarily fixed by the type of appointment which he is actually given. In other words, the individual has tenure as a permanent employee, an indefinite employee, a temporary employee, etc. Tenure is of greatest importance in the reduction in force process. For example, employees serving under appointments with no time limitation have permanent tenure of employment and are in the highest retention group for reduction in force purposes.[6]

The problem is to determine whether, in the light of the complex and dynamic personnel structure in Government today, it is now reasonable and practicable to tie the order of layoffs in reductions in force to the "type of appointment" held. We are advised that not to do so would, in effect, be a strike against the merit system—that permanent employees should not have to compete with indefinite employees for job retention. On the other hand, we are informed that there are thousands of career employees with indefinite status who are barred from competition with permanent employees, even though the indefinite employees may have demonstrated better performance and have greater length of service. Whatever may be the ultimate solution, our job is clearly that of balancing the employee equities involved with the requirements of a sound and constructive administering of the Government's business.

[6] Letter to the subcommittee from the Assistant Executive Director, United States Civil Service Commission, dated October 1, 1952, in which "tenure" and "status" are comprehensively discussed. See exhibit 3.

REDUCTION IN FORCE

Steps in Setting up a Retention Register

GS-3 Stenographers

Agency A, Washington, D. C.

Step 1 - Determine competitive area (Bureau, Agency, or Installation) in which employees are to be separated from jobs.

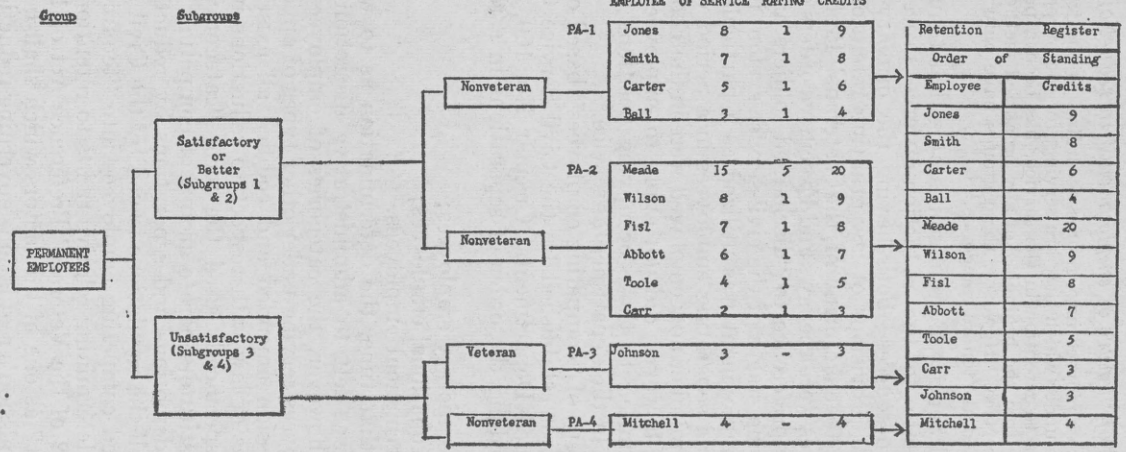
Step 2 - Determine competitive level (class of work and grade) from which separations are to be made.

Step 3 - Classify incumbents of designated competitive level to tenure, Veterans' Preference and Performance Rating.

Step 4 - Separate to groups (Tenure) and Subgroups (Preference and Performance Rating) within groups.

Step 5 - Compute retention standings in subgroups on basis of seniority and credits for Performance Ratings.

Step 6 - Rank in order of groups, subgroups and individual retention standings.



Subcommittee on Federal Manpower Policies
United States Senate
1952

Background of "tenure of employment" in reductions in force

Classifying employees into groups according to the types or duration of the appointments under which they are serving, for the purpose of determining their relative rights to retention in the service, has been a part of the reduction-in-force process from the beginning of any organized method for reducing force in the Federal service. However, these groups have only comparatively recently been designated as "tenure categories." [7]

The Civil Service Commission states that tenure categories, so far as they relate to the reduction-in-force process, were developed through two sources—both having the primary objective of giving effect to the provisions of law granting retention preference to veterans prior to enactment of the Veterans' Preference Act of 1944. These sources were the laws and Executive orders concerning efficiency ratings and preference to "discharged soldiers and sailors." During the developing stages of the civil-service system in the United States, tenure of employment was utilized as a particularly useful device in demoting and separating employees in a period when only a fraction of the total number now employed were in the Federal service. These regulations, however, did not apply to employees in the field service but were limited to those occupying positions subject to the Civil Service Act in the departmental service.[8]

The concept of "competing employees" based on tenure of employment was first established by the Civil Service Commission in 1932 when it issued Departmental Circular No. 100, dated September 1, 1932, prescribing the order of separations in a reduction in force as follows:

1. Temporary employees;
2. Probational employees;
3. Permanent employees.

Prior to that time, the determination as to who were competing employees was left to administrative discretion. During the next few years, however, the categories of employees were increased to cover employees serving under other types of appointment. In 1942, the Commission amended and codified all existing regulations and requirements of law with respect to reductions in force and, for the first time, specifically used the term "categories of tenure" which would "constitute separate groups of competing employees," for the purpose of demotions and separations by reduction in force. Since that time, all the regulations issued by the Civil Service Commission have grouped competing employees into "tenure categories" for the purpose of determining relative rights to retention in the service.

Section 12 of the Veterans' Preference Act of 1944 lists "tenure of employment" as one of the factors which shall be given "due effect" in the Commission's regulations governing reductions in force. There can be no doubt that this provision contemplated the recognition of tenure as a major factor in reductions in force. There is considerable doubt, however, as to whether the provision went so far as to restrict the application of "tenure of employment" in reductions in force to past practices of the Commission and to rules and regulations which controlled layoff policies in a bygone era. Whatever effect "tenure of employment" should have in the reduction-in-force process—and

[7] Ibid.
[8] It is significant to note that approximately 90 percent of all Federal employees are now in the field service.

it should have an appreciable effect—its application should reflect both the requirements of the merit system and the needs of an efficient service as they appear in the Federal personnel structure today.

Tenure of employment extended and complicated by current retention-preference regulations

The three broad groups originally comprising tenure have been extended until they are now needlessly complicated. These groups—permanent, indefinite, and temporary—have undergone such an expansion since the conclusion of World War II that there are now 23 separate "tenure categories" for purposes of reduction in force. The 3 basic groups have been supplemented until there are now 6 major groups:

1. *Group PA.*—Permanent appointments. All employees currently serving under absolute or probational appointments in positions held by employees on a permanent basis. Last to be separated.

2. *Group TA.*—Temporary appointments. All employees with permanent tenure serving under an indefinite promotion, demotion, or reassignment.

3. *Group X.*—Indefinite appointments. All employees with competitive status serving under indefinite appointments which were made after September 1, 1950, with no break in service of more than 30 days.

4. *Group Y.*—Employees with potential status rights under Executive Orders 10080 and 10157.

5. *Group B.*—Employees without competitive status whose appointments are indefinite or for a definite period, the duration of which is more than a year. Status employees who were appointed after September 1, 1950, after a break in service of more than 30 days.

6. *Group C.*—Employees serving under temporary appointments limited to 1 year or less. First to be separated.

Even this "categorizing" of Federal employees did not end the multiple breakdown. Within all but 1 of the 6 tenure groups in the current regulations, there are 4 subgroups:

Subgroup 1.—Veterans with performance ratings of "satisfactory" or better.

Subgroup 2.—Nonveterans with performance ratings of "satisfactory" or better.

Subgroup 3.—Veterans with performance ratings of less than "satisfactory."

Subgroup 4.—Nonveterans with performance ratings of less than "satisfactory."

Group Y contains two subgroups. There is also a special group for veterans restored to duty under the Selective Service and Training Act. There exists, therefore, a total of 6 groups with 23 subgroups in the tenure system.

It might be well to emphasize, at this point, that both groups TA and X were adopted to cover the indefinite assignments for status employees required by the Whitten amendment of 1950 (sec. 1320 of Public Law 943, 81st Cong., 2d sess.). This amendment, which is responsible for much of the "overgrowth" of the tenure system, required that all promotions, demotions, transfers, and reappointments be made on an indefinite basis. This has caused some serious inequities which will be considered at a later point in this section.

CHART 2

Retention preference for reduction in force of employees with performance rating of "satisfactory" or "outstanding"

Type of appointment		Group	Subgroup
Employees with permanent tenure who worked for the agency just before going into military service who are serving in first year after returning.	Veteran	PA-1+	PA-1+.
Employees with permanent tenure who are not serving under an indefinite promotion, demotion, or reassignment.	Veteran	PA	PA-1.
	Nonveteran		PA-2.
Employees with permanent tenure serving under an indefinite promotion, demotion, or reassignment.	Veteran	TA	TA-1.
	Nonveteran		TA-2.
Employees with permanent status serving under indefinite appointments made after Sept. 1, 1950, with a break in service of at least one workday but less than 30 calendar days.	Veteran	X	X-1.
	Nonveteran		X-2.
Employees eligible to acquire permanent status under authority of an Executive order.	Veteran	Y	Y-1.
	Nonveteran		Y-2.
Employees serving in indefinite appointments (except those in groups PA, TA, X, and Y) and employees serving under appointments with time limitations over a year.	Veteran	B	B-1.
	Nonveteran		B-2.
Employees whose appointments are temporary—limited to 1 year or less.	Veteran	C	C-1.
	Nonveteran		C-2.

Too many tenure categories

Agency heads, personnel directors, and supervisors throughout the Government unanimously agree that there are entirely too many tenure categories. This fact is confirmed by Mr. John Overholt, Chief of the Performance Rating Section, Civil Service Commission, who is, himself, in charge of the reduction-in-force program in the Government. "There is no doubt," he told subcommittee staff members, "that there are too many tenure categories and subgroups. They are causing, moreover, considerable confusion and difficulty in administering reduction-in-force procedures." The Federal Personnel Council also recognized the existence of too many groups and, in its letter to the chief counsel of this subcommittee, recommended "that the number of retention groups and subgroups be reduced."[9] (It was of the opinion that, in lieu of the approximately 24 groupings, 6 groups could be substituted.)

Tenure-category system found unsatisfactory

Operating officials have repeatedly told this subcommittee that the number of categories and the practical difficulties involved in grouping large numbers of employees under them represents a most complicated and costly task in the reduction-in-force procedure. Tenure groups are needlessly complex. Even the code symbols representing the 23 retention subgroups are under attack as being both confusing and as examples of Government "gobbledegook."

A letter to the subcommittee from the Assistant Administrator for Program Coordination, Production and Marketing Administration, points up the dissatisfaction from an administrative point of view when it states:

"You recognize the near impossible task of determining reassignment rights properly in a system which divides employees into 12 retention categories. It does not appear logical from a management standpoint, and it is impossible to explain satisfactorily to employees involved.[10]

[9] Letter to the subcommittee from the Federal Personnel Council, dated January 10, 1952, with accompanying report.

[10] Letter from the Production and Marketing Administration, U. S. Department of Agriculture, dated February 18, 1952.

The need to reduce the number of tenure groupings for the sake of management and to make them understandable to the average employee was stressed in a letter from the Securities and Exchange Commission:

> In setting up the records (retention registers, categories, etc.) a considerable amount of time had to be devoted to grouping employees in 1 of the approximately 24 retention groups and subgroups that are provided for under existing reduction-in-force regulations. Charting "bumping" and "retreat" rights in determining reasonable offers of reassignment was time consuming and complicated. It would seem that positive steps can be taken within the framework of existing legislation to reduce substantially the number of retention categories and thereby save much time and effort now expended in the mechanics of effecting a staff reduction. At the same time, it would be a much simpler task for the agency to make the reduction-in-force regulations comprehensible to the employees involved.[11]

These are all problems of the mechanics of the tenure system. They are problems which must be solved by positive administrative action if we are to improve the procedures by which reductions in force are conducted in the departments and agencies of the Federal Government. Unfortunately, there are superimposed upon these procedural matters questions of a substantive nature which involve both the equities of employees and the needs of an efficient Government service. A consideration of these substantive aspects of the tenure system, therefore, is important.

TENURE GROUPING VERSUS GOOD MANPOWER UTILIZATION

From the standpoint of maximum utilization of manpower during the continuing emergency, it is imperative that, as the President stated, "Each individual * * * serve in the capacity in which he can contribute most to the total mobilization program." [12] The results of the tenure system—grouping employees by "type of appointment" for reductions in force—often runs counter to the President's objective.

This fact can best be illustrated by showing the practical effects of the Whitten amendment, which was enacted in 1950. It required that all promotions, demotions, transfers and reappointments be made on an indefinite basis from September 1, 1950. This amendment, as it has been applied under the tenure system, has caused the most serious inequities among employees, and it has often prevented utilization of those employees with greatest experience and efficiency.

There are thousands of career employees, for example, who have had many years in Government service but who, for one reason or another, were not in the Government's employ on September 1, 1950, or who, since that date, have had a break in service of more than 30 days. The result in either case is that these employees, upon returning to Federal employment under provisions of the Whitten amendment, must be placed in a temporary or indefinite tenure status regardless of efficiency or length of service. Moreover, whatever subsequent need might exist for their particular talents in the agencies concerned, these so-called indefinite employees are among the first to be separated in a reduction in force.

[11] Letter from the Securities and Exchange Commission, dated March 11, 1952.
[12] The President's National Manpower Mobilization Policy, announced January 17, 1951.

As an illustration of the inequity involved, a letter addressed to the subcommittee from the Mutual Security Agency reads:

> The provision in the Whitten rider to place employees in a lower retention group because of a break in service of more than 30 days affects employees adversely. For instance, a competent status employee who has more than 25 years of service was displaced by an employee with less than 3 years of service.[13]

That this is a problem of considerable magnitude is illustrated in a report from the Veterans' Administration, which states:

> It is estimated that 300 nonstatus employees were separated by reduction-in-force action who had greater length of service than status employees who were retained in the same competitive level.[14]

It is important to recognize that the employees we are discussing here are career employees. Having been placed in an indefinite status due to a technicality, however, they are not permitted to compete with permanent employees on the basis of either length of service or efficiency. The report, previously cited, from the Production and Marketing Administration commented on this inequity in these terms:

> It does not appear logical from a management standpoint, and it is impossible to explain satisfactorily to employees involved, when an employee in a lower category with long service is displaced by an employee in a higher category with considerably less service. The employee in the lower category considers himself a career employee just as much as the one in the higher category, and he is so considered by management.

Bearing on this problem we posed for the consideration of the Production and Marketing Administration this question:

> During the reduction in force, was it possible for your organization to retain the most experienced and efficient employees to perform the future work of your organization? If not, why not?

The following is the response we received from the Assistant Administrator for Program Coordination:

> The present method used in RIF does not permit an agency to retain its most efficient and experienced personnel because of the way in which retention categories are established and the manner in which reductions must be effected. Your highest category of tenure is that prescribed for career veterans, PA–1. A weak employee in this group in a given line of work can and must displace the employee in the lowest category of tenure regardless of the experience or efficiency of the lowest employee on the RIF register. An example of this was the case of a PA–1 employee with approximately 5 years of service who never has received higher than a "good" efficiency rating, displacing an employee in the TA category with more than 10 years of service who consistently received "very good" and "excellent" ratings.[15]

The critical question at this point seems to be: Is it a good policy to tie priority of retention in reductions in force so rigidly to the "type of appointment" held when the overwhelming emphasis during this period of national emergency should be on getting and retaining the most efficient and experienced employees to perform the work of government? Should not competition be allowed and encouraged between and among all employees in a given unit on the basis of efficiency and experience, rather than restricting competition to stay on the job to those within a particular and purely arbitrary tenure group?

Employee merit is penalized

The subcommittee has found that a second and ironical result of the application of the Whitten rider under the tenure system is that

[13] Letter from the Mutual Security Agency, undated.
[14] Letter from the Veterans' Administration, dated January 25, 1952.
[15] Ibid.

the individual merit of employees is often penalized. The Whitten amendment requires that all employees who are promoted since September 1, 1950, be placed in an indefinite category. The obvious result of this requirement is that promoted employees thereby obtain "indefinite" status and immediately become vulnerable to being separated in the event of a reduction in force. The experience of the Veterans' Administration is revealed in this excerpt:

> The Whitten amendment, because of its requirement that all promotions must be made on an indefinite (temporary) basis, has caused a great deal of dissatisfaction and feelings of insecurity among those employees who have been promoted since September 1950 and who are thus placed in a precarious position if RIF occurs. We have actually had cases of employees who have refused promotions because of this factor. While the effect of the Whitten provision on the incentive and morale of those in the TA category is difficult to measure and assess, we do know that the effect has not been good. The "TA" provision is particularly difficult to explain and justify to those employees whose positions have been reallocated upward because of an increase in their duties and responsibilities. There is also a widespread opinion that the Whitten provision is unfair when applied to employees being promoted to permanent positions that were in existence prior to September 1950—particularly when the employees concerned were being prepared for advancement on an "understudy" basis long before the Whitten rider came into being.[16]

The effect of the amendment on the quality of personnel in the Veterans' Administration is also revealed:

> It was not possible for the Veterans' Administration to retain the most efficient and experienced employees to perform the future work of the organization. This was due chiefly to the effect of the Whitten rider. * * * By (its) operation, employees who have merited promotions are placed in a low-retention category where they are often displaced by employees who may not have had as much service or become as efficient or well qualified. * * * In a large reduction in force, the displacement and dislocation of trained and experienced employees is widespread and seriously affects the work of the agency.[17]

The Production and Marketing Administration cites its experience with the Whitten amendment, in regard to promotions, in this manner:

> A good many employees have stated that they would rather not have the promotion, since they feel their degree of security is substantially reduced, whenever a promotion is processed taking them out of their permanent grade. A few employees have requested that they not be promoted. In fact, one employee asked if there was any way she could avoid being promoted. Generally, employees in this group are concerned about their welfare when placed in the TA category. Such concern must affect their morale and efficiency, although it is impossible to state to what extent.[18]

Employees find it extremely difficult to appreciate the reasoning or value of being placed in an "indefinite" tenure status in the event of a promotion, as is illustrated by the report from the Securities and Exchange Commission:

> Permanent employees of a permanent agency find it somewhat difficult to reconcile the fact that efficiency and experience brings with it a downgrading of tenure for reduction-in-force purposes. Although familiar with the effect, however, no member of our staff has refused an indefinite promotion.[19]

The Director of Personnel of the Public Housing Administration wrote the subcommittee:

> The Whitten amendment * * * labeling promotions as "temporary" affects, in our opinion, the security, morale, and incentive of both permanent and nonpermanent employees. Promoted employees have demonstrated recognized abil-

[16] Ibid.
[17] Ibid.
[18] Ibid.
[19] Ibid.

ity to advance. The Whitten amendment, in effect, says that the Government recognizes their demonstrated ability only on a "temporary" basis.[20]

The fact that such promoted employees have return rights to their permanent level does little to ease the apprehension and inequity, as the Department of Agriculture points out:

The fact that they have return rights to their permanent level does not always mean that a position exists for them at that level when time comes to return to such level. The position might have been abolished when they were promoted or someone with higher retention rights might have been reassigned to the position, both of which means there is no position to which they might return.[21]

Employee unions are equally incensed over this inequity. Writing to the subcommittee, Mr. Luther C. Steward, president, National Federation of Federal Employees, has this to say:

There has been enacted legislation which not only hampers good administration but results in inequities whenever it becomes necessary to reduce the staff of a department or agency. For example, the so-called Whitten amendment requires that employees, many of whom have served long years, if promoted, be placed in a temporary or indefinite category quite often without the benefit of reemployment rights in the position from which promoted in his prior agency. If a reduction in force occurs, these employees are included on a register in a category which places them at a distinct disadvantage with fellow employees of relatively short or limited service. In these cases, the so-called "reasonable offer" made to an employee oftentimes borders on the ridiculous.[22]

There has been at least one dissenting voice with regard to the practical effects of the Whitten rider relative to promotions. This came from the Acting Director, Personnel Division of the National Production Authority, who writes:

Most employees understand the implications of the Whitten amendment. They know that all permanent employees in the Federal Government who received promotions since September 1950 are in category TA and that those who did not are in PA. The fact that these effects of the Whitten amendment are universal throughout the Government, leads employees to the reasoning that most permanent employees will eventually be in TA and that even if all are not, it is fair for those who have not been promoted to be in a higher category. We have found no reason to believe that there has been a lessening of the incentive and morale of those in category TA. As a matter of fact, our experience has been that there has been no hesitation in seeking promotion even though the action would result in decreased retention preference.[23]

Without wishing to reduce the force of the statement from the National Production Authority, it should be emphasized that the organization is a temporary emergency agency and this fact might have some bearing on the reactions or motivations of its employees with respect to "indefinite" status following a promotion. In other words, the very existence of the agency depends upon the course of the emergency and this fact, conceivably, might induce employees to seek promotions for the duration of the agency's limited existence, regardless of its effect upon their tenure status.

Tenure and the Whitten amendment

Throughout this discussion of the Whitten amendment we are concerned with its application to the tenure system and, finally, on the order of layoffs, in reduction in force. In summary, we are concerned over the fact that many thousands of Federal career employees

[20] Letter from the Public Housing Administration, dated February 6, 1952.
[21] Letter from Production and Marketing Administration, dated February 18, 1952.
[22] Letter from Mr. Luther Steward, president, National Federation of Federal Employees, dated June 9, 1952.
[23] Letter from the National Production Authority, dated March 13, 1952.

may be laid off in a reduction in force due to the operation of a technicality, that is "indefinite type of appointment," without the opportunity to compete with "permanent" employees on the basis of efficiency and length of service. We are also concerned that meritorious permanent employees, having earned promotions, are penalized by being placed in the inferior "indefinite" tenure status which causes them to be far more vulnerable in the event of a reduction in force. In both of these instances, we discern a patent inequity to many Federal employees and a shortsighted policy which, inevitably, must react to deter the optimum utilization of Federal manpower.

CONCLUSIONS

The conclusions of the subcommittee relative to the impact of tenure of employment as a factor in reduction in force are:

(*a*) That tenure of employment, that is, "type of appointment" held, controls the order of layoffs in reductions in force subordinating efficiency and length of service, and veterans' preference.

(*b*) That there are too many tenure categories, resulting in considerable confusion and difficulty in administering reduction-in-force procedures.

(*c*) That tenure groupings are often arbitrary and unrealistic, reducing competition among employees on the basis of efficiency and length of service and, thereby, making it extremely difficult for agencies to retain their most efficient and experienced personnel.

(*d*) That career employees with many years service are placed in an "indefinite" tenure category either on reappointment to the service, or a break in service of 30 days or more, since September 1, 1950, and are thereby vulnerable to layoff in a reduction in force prior to other employees with less service and even lower efficiency.

(*e*) That individual merit, as reflected in promotions, is penalized through the provision in the Whitten amendment placing such promoted employees into "indefinite" tenure status, making them vulnerable to reduction-in-force actions.

(*f*) That the order of layoffs in reductions in force should not depend primarily upon the type of appointment an employee has, but should be based on a formula combining all retention factors, that is, tenure, veterans' preference, length of service, and efficiency, into one whole.

2. LENGTH OF SERVICE AS A FACTOR IN REDUCTIONS IN FORCE

"Length of service" or seniority, is another of the four basic factors provided in the Veterans' Preference Act of 1944 which must be accorded "due effect" in any reduction in force in the Federal Government. The Civil Service Commission has given administrative effect to this provision by prescribing that one retention credit shall be accorded each full year of Federal military or civilian service when determining retention standings for reductions in force. In operation, however, any consideration given to length of service is sharply restricted by (1) tenure of employment, and (2) veterans' preference.

Length of service now subordinated within tenure groups

The principle of seniority, or length of service, now operates as a factor in reductions in force only within the respective tenure cate-

gories. In other words, years of service are of no standing whatsoever, whether military or civilian, except in competition with employees of the same status and in the same tenure subgroup.

For example, a permanent employee who is a veteran with a performance rating of satisfactory or better, looks to his length of service in competition with another permanent veteran of the same performance standing. Similarly, a nonveteran permanent employee with a satisfactory performance rating or better will depend on his length of service in competition with a similarly situated nonveteran. But no permanent-status nonveteran, regardless of his length of service, can compete with a permanent-status veteran. Then, as an ironic balance, no indefinite-status veteran, regardless of length of service, is permitted to compete with a nonveteran of permanent status. This relates again to the problem raised in the foregoing discussion on tenure: that there are thousands of "indefinite" status employees (who may or may not be veterans) who have worked for the Government for many years and who are invaluable employees, but who are deprived of the right to compete with other employees simply because they lack "permanent" tenure status. Is it the most equitable way, and will it insure the retention in the service of the most efficient and experienced employees, to restrict competition—particularly when it involves length of service—to those employees within respective tenure groups?

Within tenure groups, length of service gives way to veterans' preference

Section 14 of the Veterans' Preference Act provides that veterans shall have an absolute retention preference over "competing" nonveteran employees. In the case of *Hilton* v. *Sullivan* (334 U. S. 323 (1948)), the Supreme Court of the United States held that the Civil Service Commission's retention regulations were valid insofar as they granted veterans within respective tenure groups absolute priority for retention over nonveterans of the same status, regardless of length of service.

It is in this connection—the absolute retention rights regardless of length of service—that nonveteran career employees, Federal employee associations, and heads of agencies and supervisors have so bitterly complained. They charge that the policy of giving absolute preference to veterans over nonveterans, regardless of years of service, is unfair and unjust; that the practice tends to establish a monopoly of Federal employment in behalf of veterans; and that it affects the actual efficiency and economy of Government itself by depriving it of seasoned and experienced employees.

Along these same lines, a prominent newspaper columnist recently wrote:

> At present, veterans have all the best of it—to the point where long-time nonveteran career workers frequently can lose their jobs while newly hired veterans remain.[24]

Tending to confirm that statement are many case histories in the files of the subcommittee which show career workers to have been displaced by younger men with veterans' preference. As an illustration, the report from the United States Mint in Philadelphia cites numerous

[24] John Cramer in the Washington Daily News, January 3, 1952.

CHART 3

Effects of veterans' preference upon length of service in reductions in force—Summary of significant cases

Case No.	Displaced employee						Displacing employee (veteran)			
	Name	Activity Code	Date of separation	Title and grade	Civilian service (years)	Efficiency rating	Name	Civilian service	Veteran (5 or 10 points)	Efficiency rating
1	Joseph B. Griffiths	5821	Sept. 10, 1946	Shipfitter	36	Excellent	Eugene F. McCarthy, Jr.	15 years 6 months	5	Very good.
2	David Weir	8373	Apr. 10, 1950	Marker and cutter	32	do	Earl E. Sabold	12 years	5	Excellent.
3	Andrew J. Cooper	5822	Nov. 2, 1949	Storekeeper, GS-3	32	Very good	Francis J. Forsythe	5 years	5	Very good.
4	Joseph Schaffer	5822	Oct. 28, 1949	Laborer	32	Excellent	Paul V. McCullough	2 years	5	Do.
5	John Cranston	5822	Oct. 31, 1949	Machinist	32	do	Joseph Loguidice	4 years	5	Good.
6	William Ray	1514	Mar. 21, 1949	Quarterman-ordnanceman.	31	Very good	Thomas I. Connors	9 years	5	Very good.
7	John Dougherty	8373	Mar. 31, 1950	Packer	31	Excellent	Edward J. O'Brien	do	5	Do.
8	August J. Bruhmuller	5821	Oct. 31, 1949	Millman	31	do	Erling C. Wettre	13 years	5	Excellent.
9	Carl H. Johanson	5821	do	Machinist	31	do	Walter J. Kwiecinski	9 years 9 months	5	Do.
10	John H. Moore	5822	do	Clerk, GS-2	31	Very good	Raymond Murtaugh	1 year	5	Good.
11	James F. Checchio	5822	Oct. 28, 1949	Helper, flange turner	31	do	Willie Jones	9 years	5	Excellent.
12	Charles Greider	5822	Oct. 31, 1949	Electrician	31	Very good	Thomas H. Russell	do	5	Good.
13	Thomas MacDonald	5822	Dec. 18, 1949	Clerk, GS-1	30	do	John C. Murphy	11 months	5	Do.
14	Arthur Robbins	5822	Dec. 5, 1949	Storekeeper, GS-2	30	do	Edward S. Drybola	1 year	5	Excellent.
15	Thomas A. Winters	5822	Oct. 25, 1949	Fireman	30	do	Hugh W. Jackson	7 years	5	Very good.
16	Rossario Coppola	5822	July 10, 1950	Molder	30	Excellent	Evan K. Evans	5 years	5	Good.
17	George J. Mangles	5822	Aug. 20, 1946	Rigger	29	Good	George H. Swartwout	4 years 6 months	5	Do.
18	Daniel Sheehan	5822	Mar. 28, 1947	Patrolman, CPC-9	29	Excellent	Walter R. Geider	4 years 11 months	5	Do.
19	Walter J. Lawe	6152	June 11, 1949	Ship inspector, GS-9	29	do	Herbert E. Taylor	18 years (including military).	5	Do.
20	John P. Dougherty	8373	Feb. 18, 1950	Joiner	28	do	Arthur H. Burt	8 years 10 months	5	Do.
21	William H. Green	5822	Oct. 24, 1949	Helper, boilermaker	28	Very good	Jimmie L. Hamilton	5 years	5	Do.
22	William F. Luff	5820	June 27, 1947	Packer	27	Excellent	Salvatore A. Darnesto	2 years 10 months	10	Unknown.
23	Frank P. Lee	5822	Oct. 24, 1949	Holder-on	26	do	Albert R. Russum	5 years	5	Excellent.
24	Walter E. Rees	5822	Oct. 31, 1949	Welder, gas	24	do	Walter J. Dessen, Jr	8 years	5	Do.
25	Emory L. Barton	5822	Oct. 24, 1949	Painter	24	Very good	Edgar J. Maloney	7 years	5	Good.
26	Walter L. Kybitz	5820	Sept. 26, 1946	Sailmaker	22	Good	Anton Ritzel	4 years 2 months	5	Do.
27	Warren W. Garrison, Jr	6173	Mar. 24, 1950	Storekeeper, GS-10	22	Excellent	Marvin L. Perryman	31 years 3 months	5	Very good.
28	Thomas G. Strack	5822	Nov. 14, 1949	Patternmaker	22	Good	Walter J. Jerominski	11 years	5	Good.
29	John E. Swain	5820	Aug. 19, 1946	Machinist	20	do	Frank S. Zawada	1 year, 4 months	10	Do.
30	Jesse R. Carr	5122	Dec. 16, 1949	Plumber	20	Excellent	Oscar L. Sammons	5 years	5	Very good.
31	Robert Watson	5820	Sept. 13, 1946	Pipefitter	17	Good	Vitale Sansone	4 years, 10 months	5	Good.
32	Stanley Stevenson	8373	Feb. 13, 1950	Joiner	9	Excellent	Bernard P. Boettger	11 years	5	Do.
33	George Hoffman	6174	Apr. 14, 1950	Machinist	9	Very good	James E. McCahan	1 year, 2 months	5	Very good.
34	William J. Struck	6174	Apr. 17, 1950	Rigger	9	do	Frank T. Nell	4 years, 3 months	5	Do.

Effects of veterans' preference upon length of service in reductions in force—Summary of significant cases—Continued

Case No.	Displaced employee						Displacing employee (veteran)			
	Name	Activity Code	Date of separation	Title and grade	Civilian service (years)	Efficiency rating	Name	Civilian service	Veteran (5 or 10 points)	Efficiency rating
35	Marie Maciyewski	8373	Feb. 19, 1950	Clerk, GS–2	8	Very good	Griano Meyers	3 years, 4 months	5	Good.
36	Harriet M. Spencer	6173	Feb. 28, 1950	Payroll superintendent, GS–6.	8	Excellent	Joseph M. Rubeo	4 years, 6 months	10	Excellent.
37	David P. Eyer	6174	Apr. 17, 1950	Machinist	8	Very good	Edward T. Tedrick	1 year, 7 months	5	Very good.
38	Edward S. Shulenberger	6174	Oct. 2, 1949	Electrical specialist, GS–9.	8	Excellent	Arnold Holthus	3 years, 2 months	5	Do.
39	Daniel K. Cornman	6174	Apr. 17, 1950	Machinist	8	Good	Jesse H. Hoover	4 years, 4 months	5	Do.
40	Roger J. Rapp	6174	Oct. 2, 1949	Management analyst, GS–11.	7	Excellent	Russell I. Wright	3 years, 6 months	5	Excellent.
41	Robert Buick	8373	Feb. 13, 1950	Electrician	6	do	George P. Coan	4 years	10	Very good.

ACTIVITY CODES

(Source: Catalog of Naval Shore Activities P213–105)

1514 NAD, Fort Mifflin, Philadelphia
5122 District Public Works Office, Charleston, S. C.
5820 New York Naval Shipyard, Brooklyn, N. Y.
5821 Boston Naval Shipyard, Boston, Mass.
5822 Naval Shipyard, Philadelphia, Pa.
6152 Supervisor of Shipbuilding, Newport News, Va.
6173 Supply Depot, San Pedro, Calif.
6174 Supply Depot, Mechanicsburg, Pa.
8373 Marine Corps Depot of Supplies, Philadelphia, Pa.

Prepared for the Subcommittee on Federal Manpower Policies, United States Senate, by the Office of Industrial Relations of the Navy, Washington, D. C.

instances where veterans with only a few years of service displaced nonveterans with many years of service. The report reads in part:

In the competitive levels of helper, melter "A," machine operator, and melter "B," veterans with 7 years' service, or less, including military service, were retained in place of the following nonveterans:

(*a*) Harry J. Boyle, helper, 30 years' service, furloughed (during a reduction in force earlier, demoted from position of melter "A").

(*b*) Joseph J. Dunn, helper, 30 years' service, furloughed (during a reduction in force earlier, demoted from position of assistant foreman).

(*c*) Harry R. Scott, helper, 11⅔ years' service, furloughed (during a reduction in force earlier, demoted from position of assistant foreman).

(*d*) Nathan Neiman, melter, "A," 30 years' service, furloughed.

(*e*) George Bohs, melter "B," 12¾ years' service, furloughed (during a reduction in force earlier, demoted from position of assistant foreman).

(*f*) Thomas A. Anderson, machine operator, 14 years' service, furloughed (during a reduction in force earlier, demoted from position of assistant foreman).

(*g*) Harold L. Bell, machine operator, 20½ years, service, furloughed (during a reduction in force earlier, demoted from position of skilled workman).

(*h*) William Kirk, machine operator, 18½ years, service, furloughed.

(*i*) C. Orland Steers, machine operator, 21 years' service, furloughed.[25]

These instances of relatively new veteran employees replacing highly skilled employees with long periods of service are only illustrative of the hundreds of similar cases in the subcommittee files. Beyond whatever equities this condition might suggest, moreover, are very real problems of performing the Government's work, especially in such critical employment centers as arsenals, research and experiment stations, and navy yards. The report from the United States Mint, previously cited, brings such problems into clear perspective:

In each of the cases cited above, the nonveterans were separated through the application of the reduction-in-force regulations. Because of the strict interpretation of veterans' rights, by the Civil Service Commission, the mint was required to give veterans the opportunity of performing work for which they had little or no training. Later many of the veterans had to be furloughed because of their inability to perform the duties to which assigned.

Also, a number of veterans who were placed in positions involving arduous physical duties, requested reassignment to lighter work and lower-paying jobs.

The replacement of the highly skilled nonveterans with untrained veterans created a definite morale problem among the nonveteran employees. They began to feel that there was no permanency in Government employment, and many assumed the attitude that there was little purpose in doing a good job. The net result was a letdown in individual drive and efficiency.

* * * it was not possible to retain the most experienced and efficient employees unless such employees had veterans' preference and a number of years of service. The mint was required to assign inexperienced employees to certain jobs in which they failed to give a satisfactory performance. This was a very costly procedure.[26]

A fact that is sometimes overlooked in this regard is that many Government employees who are nonveterans were in critical occupations during World War II and were not permitted to leave their jobs and enlist in the Armed Forces. This is particularly true of workers in navy yards, arsenals, and similar defense establishments. There is an obvious inequity here which might be illustrated by a letter from the subcommittee files:

All during World War I, I represented my trade as instructor in the Charleston Navy Yard. During this time, I went to the naval recruiting office to see about joining (the service) * * *. I was told that anyone training workers at the navy yard was doing far more important work than anything he could do in the

[25] Letter from the Treasury Department, dated January 28, 1952, with accompanying report from the Bureau of the Mint, Philadelphia, dated January 24, 1952.

[26] Ibid.

Armed Forces and there would be no chance for release from a defense agency. The war then ended. Reductions in force were in order. The first reduction in force did not get me due to my seniority. The second reduction in force came and I was reached for demotion. I left behind me many men with less seniority who were no more efficient than I. The production soldier, the man behind the gun, regardless of his years of service, his efficiency, must go and let the master race take over.[27]

It cannot be denied that the Veterans' Preference Act, as interpreted and implemented by the Commission, has operated so as to create some rather harsh inequities, particularly in the application of absolute preference with regard to length of service. Numerous legislative proposals have been made to give greater weight to the seniority principle in reductions in force. Most of these have aimed at increasing the retention preference of career employees by amending section 12 of the Veterans' Preference Act of 1944. So far, veterans' groups have successfully opposed any limitation of the absolute preference to veterans. The legislation referred to would grant extra credit for time spent on military duty, but would end the absolute retention preference, within tenure categories, which veterans now hold. These proposals are included in exhibit 5.

CONCLUSIONS

The conclusions of the subcommittee relative to the impact of length of service in reductions in force are:

(*a*) That length of service is now restricted in its application to the respective tenure groups, i. e., permanent, indefinite, and temporary, which results in narrowing the area of competition among Federal employees on the basis of seniority.

(*b*) That within tenure groups, employees with veterans' preference have absolute retention rights over nonveterans regardless of length of service.

(*c*) That subordinating length of service to tenure and veterans' preference creates severe inequities, and often results in the Government losing its experienced and highly skilled career employees.

3. VETERANS' PREFERENCE AS A FACTOR IN REDUCTIONS IN FORCE

Another of the four factors determining the order of layoffs in a reduction in force is that of veterans' preference. The impact it has on length of service in determining retention preference is considered in the preceding discussion. We discovered there certain inequities. There is, however, far more to veterans' preference as a principle than that discussion would indicate. Its logic and fairness, as a means of recognizing those who served in the military forces of our country, is founded in the basic traditions of our people. Veterans' preference should have, and it must have, a positive influence in determining the order of layoffs when departments and agencies of the Federal Government reduce the total size of their staffs. The specific role it should play may be obscured however, unless we first consider its legislative background.

Background of veterans' preference [28]

The first Federal statute providing preference to veterans in reductions in force was enacted by Congress on August 15, 1876 (19 Stat.

[27] Letter from Mr. H. R. Alge, Route 9, Box 633, Naval Base, South Carolina, dated November 3, 1951.
[28]. See exhibit 2, "Federal Statutes Providing for Preference to Veterans in Federal Employment and Reductions in Force."

169–3). Congress, in that act providing for reduction in force in the executive departments, provided that the heads of departments should—

> retain those persons who may be equally qualified who have been honorably discharged from the military or naval service of the United States, and the widows and orphans of deceased soldiers and sailors.

The Soldiers and Sailors Act of 1912 (40 Stat. 1293–6) contained a provision that no honorably discharged soldier or sailor in Federal employment whose efficiency was good was to be separated or reduced in grade or salary during a reduction in force. This act went so far as to provide that any official of any agency who knowingly violated this provision could be imprisoned up to 1 year, or fined $1,000, or both.

Executive Order No. 3567, October 24, 1921, provided among other things that—

> * * * In cases of reductions in the number of employees on account of insufficient funds or otherwise, necessary demotions and dismissals shall be made in order, beginning with the employees having the lowest [efficiency] ratings in each class, but honorably discharged soldiers and sailors whose ratings are good shall be given preference in selecting employees for retention.

This provision was subsequently amended (Executive Order No. 4240, June 4, 1925) and was construed to require that employees entitled to veterans' preference should be placed at the top of the lists of competing employees, in the order of their efficiency ratings, provided they had a rating of not less than 80. It also directed that additional points should be granted for length of service in determining the order of demotion or separation.

At this point in the development of veterans' preference, the concept of "tenure of employment" was injected for the first time. The Personnel Classification Board, who were charged with the responsibility of approving proposed reduction-in-force demotions and separations, issued Circular No. 20, June 10, 1925, providing that "Temporary employees will be demoted or separated before any employee having a permanent status is demoted or separated * * *". The element of "competing employees" was introduced by an amendment of March 2, 1929, which provided that no employee entitled to preference should be separated or demoted "if his efficiency rating is equal to that of any employee in competition with him who is retained in the service. The determination as to who were competing employees was left to administrative discretion, however, until September 1, 1932 when the Civil Service Commission issued Departmental Circular 100, prescribing the order of separations because of reductions in force as follows: (1) Temporary employees, (2) probational employees, and (3) permanent employees.

Other Executive orders and directives gradually developed the preference system and enlarged the Civil Service Commission's jurisdiction with respect to reductions in force. Finally, the Veterans' Preference Act of 1944 was enacted as the all-inclusive statutory authority for veterans' preference.

Veterans' Preference Act of 1944 [29]

The Veterans' Preference Act of 1944 codified all provisions granting military preference to veterans in connection with appointment

[29] See exhibit 1, The Congressional Intent of the Veterans' Preference Act relating to Reductions in Force.

and retention in civilian positions in the Federal Government. Section 12 of the act incorporated at the advice of the Civil Service Commission, deals specifically with reductions in force. It provides that "military preference" shall be given due effect in any reduction in personnel in any civilian service of any Federal agency. It further provides:

> That preference employees whose efficiency ratings are "good" or better shall be retained in preference to all other competing employees and that preference employees whose efficiency ratings are below "good" shall be retained in preference to competing nonpreference employees who have equal or lower efficiency ratings * * *.

Unfortunately, the language of section 12 is so obscure in places and the substantive rights of both veterans and nonveterans have so depended upon the interpretation or definition given to a single word, that the actual effect "military preference" should have in determining retention preference has been left in considerable doubt. This has resulted in numerous court tests and even these decisions have been largely based on congressional "intent," which is patently unclear,[30] and "prior practices" of the Civil Service Commission.

CHART 4

Trend of employment of Federal executive agencies in continental United States by sex and veteran preference, 1945–52

Date	All employees			Men			Women		
	Total	Veteran preference		Total	Veteran preference		Total	Veteran preference	
		Number	Percent of total		Number	Percent of total		Number	Percent of total
June 30, 1945	2,915,476	449,618	16	(1)	(1)		(1)	(1)	
June 30, 1946	2,299,007	817,175	36	1,652,703	784,538	47	646,304	32,637	5
June 30, 1947	1,849,781	788,328	43	1,409,184	748,603	53	440,597	39,725	9
June 30, 1948	1,859,807	824,400	44	1,436,110	787,458	55	423,697	36,942	9
June 30, 1949	1,928,524	898,325	47	1,494,465	856,555	57	434,059	41,770	10
June 30, 1950	1,719,489	895,536	49	1,413,051	855,087	61	406,438	40,449	10
June 30, 1951	2,312,982	1,070,503	46	1,739,832	1,023,539	59	573,150	46,964	8
June 30, 1952	2,419,187	1,119,656	46	1,822,380	1,070,539	59	596,807	49,117	8

[1] Not available.

Our immediate task would seem to be, therefore, to determine the actual role military preference is playing at the present time; to cite the inequities which appear to have arisen on both sides; and, finally, to develop conclusions which might point the way to the future role of preference as a factor in reductions in force.

Current role of veterans' preference

With the Veterans' Preference Act of 1944 as the basic authority, we can proceed to an examination of the Civil Service Commission's retention-preference regulations[31] and to a review of the Federal court decisions in determining the operation of veterans' preference. Such an examination will reflect most succinctly the role of preference if made in reference to its effect in relation to the other factors in the act, i. e., tenure of employment, length of service, and efficiency ratings.

[30] See exhibit 1.
[31] See exhibit 4, "Retention Preference Regulations for Use in Reductions in Force."

(1) *Veterans' preference subordinated to tenure of employment.*—The Civil Service Commission refers to the word "competing" in section 12 of the Veterans' Preference Act as its authority to group employees into tenure categories—i. e., permanent, indefinite, and temporary—for the purpose of determining the order of layoffs in reductions in force. Under that authority, the Commission's retention preference regulations establish the predominance of tenure of employment over military preference. The Supreme Court of the United States, in the case of *Elder* v. *Brannan* ((1945) 341 U. S. 277), upheld the validity of the Commission's regulations, and stated: "The regulations first define 'competing' employees on the basis of tenure of employment * * * and limit the reach of veterans' preference to competing employees of the same group. The term 'competing' employees * * * necessarily implies that a veteran's preference operates only within a defined group." The Court went on to hold that the Commission's definition of "competing" may reasonably be said to "carry into full effect the provisions, intent, and purpose (of the statute)." [This may imply that other interpretations, also, might be reasonable if affording full effect to the provisions, intent, and purpose of the act.]

The result of the Commission's retention-preference regulations is that veterans' preference, as a factor in layoffs, is of no effect at all at the present time except within the respective tenure groups. It cannot be linked with the "indefinite" or "temporary" veteran's efficiency rating and length of service for purposes of competing with all employees in a reduction in force; but his preference need be considered only in competition with other employees in his particular tenure group. What does this mean in practice? It means that a veteran with an "indefinite" tenure status, even though he might have 10 years of service and an "outstanding" performance rating, is not permitted to "compete" for retention on the job with a nonveteran who holds a "permanent" status, and even though the nonveteran might have only 1 year of service and a "satisfactory" performance rating.

That veterans exercise "absolute preference," therefore, is only a half-truth, for they exercise such preference only within the well-restricted bounds of tenure categories. That fact may be illustrated from a report by the Veterans' Administration which points up the impact tenure grouping has on the veteran in an "indefinite" status: "* * * 50 (veterans) with indefinite appointments, and 20 with time. limit appointments were involuntarily separated."[32] Most of the veterans being affected are relatively new employees and they resent the tenure restrictions upon veterans' preference. On the other hand, they recognize that if the tenure restrictions were eliminated, a modified retention formula would be required to prevent the harsh consequences of the present formula.

(2) *Length of service minimized by "absolute preference."*—As stated in the section relating to "length of service," the principle of seniority now operates as a factor only within the respective tenure categories. Within these categories veterans have absolute preference of retention over nonveterans regardless of the longer service of the latter (*Hilton* v. *Sullivan* (1948) 334 U. S. 323). The inequity is clear: a veteran within each of these tenure groups with only 6 months' service and a "satisfactory" performance rating has priority for retention

[32] Ibid.

over a nonveteran employee, even though he might have 20 years' service and an "outstanding" rating. The result is that Government is gradually losing many of its most experienced and highly skilled employees. Moreover, arsenals, ordnance laboratories and plants, and navy yards report that they cannot recruit skilled men for these positions, and former employees who have been laid off in reductions, will not return to Government employment as a consequence of this basic inequity in competing for retention. For example, a United States Coast Guard yard reports that "* * * when reductions in force are frequent, it is very difficult to persuade the more efficient employees who have been furloughed to return to duty." The Veterans' Administration experienced a similar reaction when it attempted to reemploy 241 trained and experienced former workers. "The agency was able to reemploy 166 of the employees separated during RIF; 75 more were offered jobs, but declined."

(3) *Efficiency ratings little affected.*—Efficiency ratings are now of very little weight in the reduction-in-force procedures; consequently, the effect of veterans' preference upon this factor is negligible in practice. The act specifically provides, however, "That preference employees whose efficiency ratings are 'good' or better shall be retained in preference to all other competing employees * * *." This is the identical provision which, in conjunction with the Commission's interpretation of the word "competing," permits "absolute preference" for veterans with respect to length of service within each tenure category. It could, therefore, result in a veteran with only a "satisfactory" performance rating remaining while a nonveteran with an "outstanding" rating was separated. Conversely, it is possible for a nonveteran with a permanent status and only a "satisfactory" rating to be retained in preference to a veteran with an indefinite status and an "outstanding" performance rating. The fact that more than 99 percent of all Federal employees are rated "satisfactory," however, renders this question one more of theory than of practice.

CONCLUSIONS

The conclusions of the subcommittee relative to the impact of veterans' preference in reductions in force are:

(*a*) That veterans' preference should have a major role, on as broad a basis as possible, in determining the order of layoffs in a reduction in force.

(*b*) That veterans' preference now operates only within the respective tenure categories and is thereby restricted in its effect or application as a means of recognizing those who have served in the armed services.

(*c*) That the effect of "absolute preference" on length of service is inequitable, and results in the loss to the Government of highly skilled and experienced employees.

(*d*) That a new formula, by which veterans' preference would be extended and its effect on length of service would be modified, should be adopted.

[33] Ibid.
[34] Ibid.

4. EMPLOYEE EFFICIENCY AS A FACTOR IN REDUCTIONS IN FORCE

The Veterans' Preference Act provides that in reductions in force, "* * * employees shall be released in accordance with * * * regulations which shall give due effect to * * * efficiency ratings." This provision may be fairly interpreted as meaning that an employee's efficiency, as reflected in terms of an efficiency rating, is to be of some importance in determining his retention standing when a layoff occurred in the agency. The initial problem here, then, is to determine whether individual efficiency is being accorded "due effect" at the present time and, if not, to weigh the consequences of its failure in terms of proper manpower utilization.

Under the Efficiency Rating Act the regulations of the Civil Service Commission gave effect to the efficiency factor by prescribing 5 retention credits for a rating of "excellent," 3 for "very good," and 1 for "good." This arrangement, utilizing numerical gradations based on the adjective ratings then in use, was relatively satisfactory for the purpose of giving "due effect" to merit in reductions in force. It had the additional advantage of serving as a compensating feature for employees whose efficiency was high (although it was charged, with some justification, that the percentage of "excellent" ratings was disproportionately high).

Employee efficiency as a factor under the performance rating act of 1950

In 1950 the Performance Rating Act was enacted by Congress with the purpose of overhauling and improving the efficiency-rating system in Government. The act established three new "performance" ratings: "Outstanding", "satisfactory", and "unsatisfactory". This necessitated, in turn, an adjustment by the Civil Service Commission of the retention credits to be assigned these new ratings for the purposes of computing retention standings of employees in reductions in force. The Commission prescribed, accordingly, 5 retention credits for an "outstanding" rating and 1 retention credit for a "satisfactory" rating.

Ninety-nine percent of all Federal employees now rated "satisfactory"

Congress had set in the Performance Rating Act very high standards for the "Outstanding" rating and the Civil Service Commission has rigidly maintained the integrity of that rating, both in the letter and in the spirit. The result has been, though, that more than 99 percent of all employees in the Federal civil service are now rated "Satisfactory." As evidence of this fact, Mr. Denton Reed, departmental personnel officer, Veterans' Administration, informed the subcommittee that "less than one-tenth of 1 percent" of the 13,000 employees in that organization have "outstanding" ratings. Another personnel director, Mr. T. A. Flynn, of the General Accounting Office, stated that the percentage of "outstanding" performance ratings in the General Accounting Office, employing some 5,600 people, was "approximately one-half of 1 percent." Indeed, in a report solicited by the subcommittee, the General Accounting official wrote that "An employee may attain an 'outstanding' rating, never having attained one before, and may never attain one again. Some look upon an 'outstanding' rating solely as a reward and not as an incentive because the prospects of attainment are so remote." [35]

[35] Letter from the General Accounting Office, dated June 12, 1952, with accompanying recommendations for improving reduction-in-force procedures.

"Efficiency" factor is now of virtually no weight in reductions in force

The result of the present system is that efficiency, as a factor in the layoff process, is of virtually no effect whatever. Those employees whose performance is high and whose working habits make them desirable employees obtain the identical "efficiency" credit, for purposes of establishing their relative standings in a layoff, as other employees who are merely "getting by." Each are entitled to one retention credit for a "satisfactory" performance on the job. This single credit, of course, when added to other credits earned for each year of civilian and military service, determines their relative standings within tenure groups for retention in their jobs.

In practice, therefore, while "recognition" is given to more than 99 percent of Federal employees by means of a 1-point credit for "efficiency," the actual efficiency of the individual employees in Government service—whether good or bad—is absolutely ignored.

Employee morale and incentive are adversely affected

The failure to give adequate weight to the efficiency of the individual employee when a layoff occurs is "shooting morale to pieces," according to a personnel director of several thousand people. A similar opinion was voiced by personnel directors in practically every agency with experience in conducting reductions in force.

From a standpoint of incentive, the question is simply this: How hard will employees work, and how efficient will they strive to be, when their work and their efficiency are not reflected in terms of a more advantageous performance rating in the event of a reduction in force?

Whatever may be the answer to that question, the failure of the present procedures to reward efficiency in time of a layoff is certain. Merit as a retention factor has been minimized. This situation, obviously, could result in the loss of many of the best qualified people through reductions in force and ultimately lead to a deterioration in the effectiveness of department and agency operations.

Supervisors cannot choose between employees "barely satisfactory" and those "highly satisfactory"

A report from the United States Coast Guard reads:

> "* * * the new performance rating system * * * will make it even more difficult to retain the most experienced and efficient employees since there is no intermediate rating between "satisfactory" and "outstanding" and the standards for the latter are so high that very few employees will receive such a rating.[36]

The problem suggested in the statement from the United States Coast Guard is apparent: When 99 percent of all employees are rated "satisfactory," there is no selective device available to supervisors during a reduction in force for differentiating between those employees who are just barely "satisfactory" and those employees who are highly "satisfactory." "The supervisor," commented T. Roy Reid, Director of Personnel, Department of Agriculture, "can have no real selection at all when a reduction in force occurs in his unit. This is true because the efficiency rating has the least weight of all other factors in preparing retention standings."

[36] Ibid.

The Hoover Commission also recognized the inability of the supervisor to exercise his judgment in reduction in force proceedings and expressed concern over the "little weight (given) to the judgment of supervisors in deciding which employees should be retained." [37] This creates, in turn, a serious problem in manpower utilization.

Supervisors resist economy, fearing the impact of reductions in force on most desirable personnel

The agency head or supervisor in Government, far from being willing to voluntarily economize, is forced into the position of not only not economizing himself, but of actually resisting any economy in the use of personnel in his organization which would bring about a reduction in force and which, very likely, would deprive him of the services of his most efficient employees. It is not always the most efficient who are separated, of course. The point is this: the supervisor has absolutely no control over who will be discharged and who will remain once competitive levels, or "types of jobs" have been selected.

With the very real incentive to retain the most efficient and experienced employees to perform successfully the functions of his organization, the supervisor is seldom going to consider very seriously the introduction of economies in personnel which may react to hamper his unit's performance. This view was expressed almost unanimously by responsible agency heads and supervisors during the course of our investigation. It is quite obvious that we cannot expect economy in the use of Federal manpower until a supervisor can recommend a reduction in the number of people in his unit with some real assurance that his most efficient and experienced workers will not be the ones laid off.

Merit must be reestablished

It may be well to point out that, like the Federal Government, neither industry nor State and local governments have solved satisfactorily the problem of how to give greater weight to individual efficiency when layoffs occur. The Federal Government, nevertheless, has a continuing obligation to make every conceivable effort to recognize and reward individual efficiency, not for the benefit of the employee alone, but for the good of the Federal service. The objective is clear. But the means for attaining the objective are not nearly so clear. We have to recognize that the Congress has established a definite framework for conducting reductions in force within which any administrative effort to improve the system must operate. Within this structure there are only certain and relatively limited steps which can be taken to strengthen the efficiency factor in reductions in force. The subcommittee has developed two proposals. One is aimed at reducing the administrative and clerical workload in reduction in force. The second is designed to insure the retention in the service of those employees whose efficiency and experience make them of unique value in the particular job of the agency involved. These proposals, with the indirect benefits of our revised retention formula, should do much to reestablish merit as a significant factor in reductions in force.

[37] Task Force Report on Federal Personnel, prepared for the Commission on Organization of the Executive Branch of the Government, January 1949.

CONCLUSIONS

The conclusions of the subcommittee relative to individual efficiency as a factor in reduction in force are:

(*a*) That efficiency, or individual merit, is of virtually no importance as a factor in determining which employees will be retained and which will be separated in a reduction in force. Specifically, we do not believe that "efficiency ratings" are being accorded the "due effect" intended by Congress in the Veterans' Preference Act of 1944.

(*b*) That the existing practice of computing one retention credit for a "Satisfactory" performance rating for each individual employee is an administrative enigma that is costly and totally without benefit.

(*c*) That the morale and the incentive of employees are adversely affected by the failure of merit as a material factor in reductions in force.

(*d*) That agency heads and supervisors have no opportunity or administrative discretion, within competitive levels, which would enable them to retain the most efficient and experienced employees to perform the functions of Government.

(*e*) That the current regulations and procedures deter incentive among supervisors to economize in the use of personnel.

Summary of Part I

Throughout part I we have been concerned with the problem of how to determine who shall be laid off, and who shall be retained during reductions in force in the Federal Government. The criteria which controls an administrator in making these decisions have been examined in considerable detail. We may now proceed to an overall evaluation of the existing retention formula, using as a reference point the four basic questions initially raised in this discussion.

First, the subcommittee has concluded that the relative weight accorded the four retention factors in the present formula does not provide a workable method for insuring the retention of the most efficient and experienced employees in Government. Tenure of employment, or "type of appointment" held, dominates the entire layoff system at the expense of veterans' preference, length of service, and individual efficiency. It has been found to be arbitrary and most unrealistic, with only minimum benefits to the merit system and even less to programs for improved utilization of Federal manpower.

Second, there is a real inequity involved in the "absolute preference" assigned to veterans with respect to length of service, resulting in the loss of scores of experienced and efficient employees. On the other hand, there is a serious question as to whether veterans' preference is receiving the type of broad application it should have in competition for retention in the service. Veterans' preference is sharply restricted to tenure categories and, in this manner, appears to discriminate against the veteran with less than a permanent status.

Third, it has been found that length of service is not accorded adequate weight in the layoff system. This is primarily true because of its subordination to both tenure of employment and veterans' preference. We believe that length of service must play an increasingly important role if we are to (1) reward employees with long service, and (2) insure that Government is able to retain trained, experienced, and highly skilled employees.

Fourth, the individual efficiency of Government employees, as reflected in their efficiency ratings, is of virtually no weight in the reduction-in-force process. This has resulted in a material lowering of morale and incentive among employees. Supervisors have been found to be entirely without discretion in determining the order of layoffs and, as a consequence, have tended to resist any economy which might bring about the loss of their most experienced and efficient workers. This condition sharply limits any real savings in manpower, which, otherwise, might be possible on a unit by unit basis.

Proposals for Improving the Layoff Formula

The subcommittee has studied numerous proposals for improving the formula which now controls the order of separations in reductions in force. All of these proposals have one objective in common: They aim to reduce the imbalance between the retention factors which is so patent in the present system. Various Members of Congress have introduced legislation which would revise the formula either on a point basis or on the basis of years of service.[38] The Federal Personnel Council proposed that section 12 of the Veterans' Preference Act be revised to give greater weight to the relative qualifications and suitability of employees for the remaining work to be done. It then recommended the adjustment of military preference and length of service factors on the basis of a minimum credit of 10 years of civilian service for each preference employee.[39] An ad hoc committee in the Department of Agriculture reported that "civil-service regulations based on [the Veterans' Preference Act] critically restrict the choice of who goes and who stays." and proposed that the formula be revised to give preference employees two retention credits for each year of military service, but that absolute preference be eliminated.[40]

A similar recommendation was made by the Hoover Commission, in this language:

> 5. *The absolute retention preference now accorded veterans by law should be replaced by a formula granting additional seniority credit.*
>
> Of the preferences given veterans in Federal employment, the right to be retained in preference to all other competing employees (providing the veterans' efficiency ratings are good or better) is directly at variance with the maintenance of a true career service based on merit and efficiency. * * * In the case of retention preference it is felt that sufficient preference should be granted to allow veterans ample time in which to readjust themselves to civilian employment, and to compensate them generously for the time lost. It is thus proposed that the (formula) be modified to provide that veterans will be given additional seniority credit on reduction-in-force registers equivalent to 1 year for every 6 months (or fraction of 6 months) of service in the Armed Forces.[41]

A report from a United States Coast Guard yard questions the value of grouping employees into tenure categories for purposes of reduction in force and recommends to the subcommittee:

> Eliminate the distinction between status and nonstatus employees (except those employees who are appointed on a job basis for 1 year or less) during a reduction in force, thus permitting the employees to compete on the basis of [veterans' preference, length of service and efficiency] only. Once an employee is appointed in the agency in accordance with the prescribed rules and regulations, his reten-

[38] See exhibit 5.
[39] See exhibit 6.
[40] Recommendations and comments by a special reduction-in-force committee appointed by the Director of Personnel, Department of Agriculture, dated February 7, 1952.
[41] Task Force Report on Federal Personnel, prepared for the Commission on Organization of the Executive Branch of the Government, January 1949.

tion should be based upon his performance, veteran status, and seniority without regard to the manner in which he was selected for the position.[42]

With the benefit of these and numerous other recommendations, the subcommittee has developed proposals which, it believes, will greatly improve the existing formula. Indeed, the subcommittee's revisions amount to an entirely new formula for determining retention preference. It should do much to eliminate the harsh inequities of the present procedure, while simultaneously strengthening the framework of the merit system and promoting the quality of our Federal employees.

Proposal No. 1

All categories based on type of appointment should be eliminated and reduction in force accomplished on a point basis within each competitive level, governed by the following factors:

(*a*) *Years of service.*—One point for each year of civilian service and two points for each year of military service.

(*b*) *Military preference.*—Two points for each year of military service. Preference employees with "satisfactory" ratings or better to be retained in preference to all other competing employees with equal number of points. (Competing employee is defined as one having the same number of points as another employee.)

(*c*) *Performance rating.*—Four points for an "outstanding" rating.

(*d*) *Tenure (type of appointment).*—Three points for permanent type of appointments.

This proposal, with its attendant factors, represents a balanced approach to the reduction-in-force problem. It would employ a point formula as a basis of competition in lieu of the present tenure category system. An employee would receive points for each factor designated in the Veterans' Preference Act of 1944, i. e., tenure of employment, military preference, length of service, and performance rating. The effect of this proposal would be to give greater weight to years of service, wider application to veterans' preference and, indirectly, increased emphasis to individual efficiency. Tenure of employment, on the other hand, would not continue to exercise the dominant role that it now is given.

The subcommittee is convinced, after months of exacting study, that this revised formula would do much to solve the major problems of retention preference in reductions in force. It would eliminate the cumbersome tenure or "type of appointment" categories which are now so unnecessarily complex and confusing in reduction-in-force procedures. On the other hand, it would continue to recognize a permanent-appointment employee and would grant additional points for use in establishing retention preference. Government departments and agencies would be assured of retaining highly skilled employees with many years of experience. It would also do much, as supplemented by further proposals, to reestablish individual efficiency as a consideration in reduction in force. Veteran-preference employees would be permitted to exercise their preference, in terms of additional points, in competition with all the employees on the reduction-in-

[42] Letter to the subcommittee, with accompanying report, from the Treasury Department, dated January 28, 1952.

force register, and would no longer be limited to narrow tenure categories. In this connection, it is important to note that this proposal calls for a redefinition of the term "competing employee" as used in section 12 of the Veterans' Preference Act. Under the definition which we recommend, employees would only be in competition for the purpose of section 12 when they had an equal number of points with another employee. In other words, a nonveteran with 15 points would not be considered in competition with a veteran with 10 points. Also, the provision in the Veterans' Preference Act which states that veterans with an efficiency rating of satisfactory or better will be retained in preference to all competing employees would have meaning only when two employees in the same competitive level had an equal number of points.

The elimination of the 1-point computation for a "satisfactory" rating, and giving instead 4 points for an "outstanding" rating would, itself, do away with a costly and time-consuming administrative task which is now involved.

We are of the opinion that this proposal can be adopted administratively, without resort to legislation amending the Veterans' Preference Act of 1944. To be accomplished in that manner, however, the point formula which we have devised must afford reasonable compliance with the act and carry into full effect the provisions, intent, and purpose of the statute. We believe that it does. Moreover, the doctrine of stare decisis, i. e., that precedents must be followed, does not apply to administrative actions of a quasi-legislative character, such as the issuance of regulations. An administrative agency can change its regulations any time that it sees fit, the only requirement being that the regulations must be in accord with the law. This matter may be reduced to a simple question: Can different weights be given the four retention factors provided in section 12 of the Veterans' Preference Act, other than the weights they now have, without amending the law? We are of the affirmative opinion. The Court of Appeals for the District of Columbia said as much in its decision on the Hilton case. The court stated that it could not say that the regulations issued by the Civil Service Commission were an unreasonable method of applying the general directives of the statute. It then went on to say that—

> at the same time we do not think, as appellees argue, that the regulations as drawn represent the only possible method of applying the statute.

The subcommittee has concluded, therefore, that the Civil Service Commission will be able to adopt this proposal administratively, without further legislation. In tha event, the Commission is urged to issue regulations which would give this formula effect at an early date. On the other hand, if the Commission should reach the conclusion, after studying the proposal, that legislation will be required amending section 12 of the Veterans' Preference Act, then it should assume the initiative and prepare such legislation forthwith for presentation to the Civil Service Committees of both the House of Representatives and the Senate.

Proposal No. 2

Recognizing that under certain conditions the retention formula proposed by the subcommittee will not permit the retention of meritorious and essential employees, the head of each agency is given the authority

to except from the regular order of selection a maximum of 5 percent of the employees to be affected by the reduction in force, upon certification that the excepted employees possess qualifications peculiar and essential to the continued efficient operations of the agency. The Civil Service Commission will postaudit such exceptions.

Certain exceptions from the order of competition are provided under existing regulations. The subcommittee has concluded that it is imperative to broaden the provision and to allow more liberal exceptions among employees in reductions in force. Such exceptions, although limited to five employees out of a hundred who are affected in a reduction in force, would nevertheless insure that agencies could retain their highly meritorious employees who are essential to the future efficient operations of the agency. Equally as important, it would substantially eliminate the reluctance on the part of many administrators to economize in the use of personnel (and cause a reduction in force) out of fear of losing their experienced and efficient employees.

This proposal would do much to solve the problem illustrated in a letter from the Veterans' Administration:

> It was not possible for the Veterans' Administration to retain the most efficient and experienced employees to perform the future work of the organization. This was due (in part) to the fact that the Civil Service Commission's retention-preference regulations as now written permit too little opportunity for the exercise of administrative discretion in conducting reductions in force.[43]

Supporting this type of exception, the Federal Personnel Council approved a report to this subcommittee, which states in part:

> * * * exceptions to regular retention order within competitive levels affected might be used to place greater emphasis on efficiency * * * where necessary to prevent impairment of the service.[44]

The Securities and Exchange Commission also favored this device as a means of emphasizing efficiency:

> It is obviously desirable in a reduction in force to be able to give a greater degree of emphasis to efficiency. The answer to this problem would seem to lie in giving the individual agencies wider discretion in making exceptions to the regular retention order of separating employees, where such exceptions are clearly in the interest of retaining more efficient employees. Since any actions taken under this rule of exception would be subject to appeal, an employee's rights still would be protected against indiscriminate action.[45]

The Department of Agriculture states that such an exception will be highly beneficial to the service and that where such exceptions are made, they should—

> * * * involve knowledge of conditions peculiar to the specific position, specialized experience, that cannot be acquired without undue interruption to the work, traits of personality, and other characteristics that usually are not spelled out in official qualification standards.[46]

[43] Letter from the Veterans' Administration dated January 25, 1952.
[44] Ibid.
[45] Ibid.
[46] Ibid.

PART II

THE PROBLEMS OF REASSIGNMENT

General

We examined in part I the four retention factors which must be considered in establishing the "retention standing" of each employee in an agency for the purposes of reduction in force. When the actual reduction in force program occurs, however, employees in certain groups who are reached for layoff have the right to reassignment to other jobs. These rights to reassignment, of course, reflect their individual "retention standing" or priority for retention.

EMPLOYEES HAVING REASSIGNMENT PRIVILEGES

Reassignment rights are currently extended by civil-service regulations to all employees except those serving under appointments with definite time limits and nonveterans who do not have status or who have been reemployed with a break in service of more than 30 days. An employee with reassignment rights who is reached for action in a reduction in force now has the right to displace or "bump" employees in lower retention subgroups in the same agency as long as (*a*) he is qualified to fill the positions held by the lower ranking employees without undue interruption of the work program, and (*b*) the positions involved are within the same local commuting area, e. g., the metropolitan area of Washington, D. C.

Chart 5

Individual reassignment rights under the existing tenure system

An employee in subgroup	has reassignment rights to a position occupied by an employee in subgroup	provided that	and the position is located in
PA-1	PA-1 with fewer retention credits	the position is the same as the position from which he had been promoted on a permanent basis [1]	the geographic locality from which the employee was reduced in force
	PA-2 and below	he qualifies for the position	Do.
PA-2	PA-2 with fewer retention credits	the position is the same as the position from which he had been promoted on a permanent basis [1]	Do.
	PA-3 and below	he qualifies for the position	Do.
PA-3	PA-4 and below	Do.	Do.
PA-4	TA-1 and below	Do.	Do.
TA-1**	TA-2 and below	Do.	Do.
TA-2**	TA-3 and below	Do.	Do.
TA-3**	TA-4 and below	Do.	Do.
TA-4**	X-1 and below	Do.	Do.
X-1	X-2 and below	Do.	Do.
X-2	X-3 and below	Do.	Do.
X-3	X-4 and below	Do.	Do.
X-4	Y-1 and below	Do.	Do.
Y-1	Y-2 and below	Do.	Do.
Y-2	Y-3 and below	Do.	Do.
Y-3	Y-4 and below	Do.	Do.
Y-4	B-1 and below	Do.	Do.
B-1	Below B-1	Do.	Do.

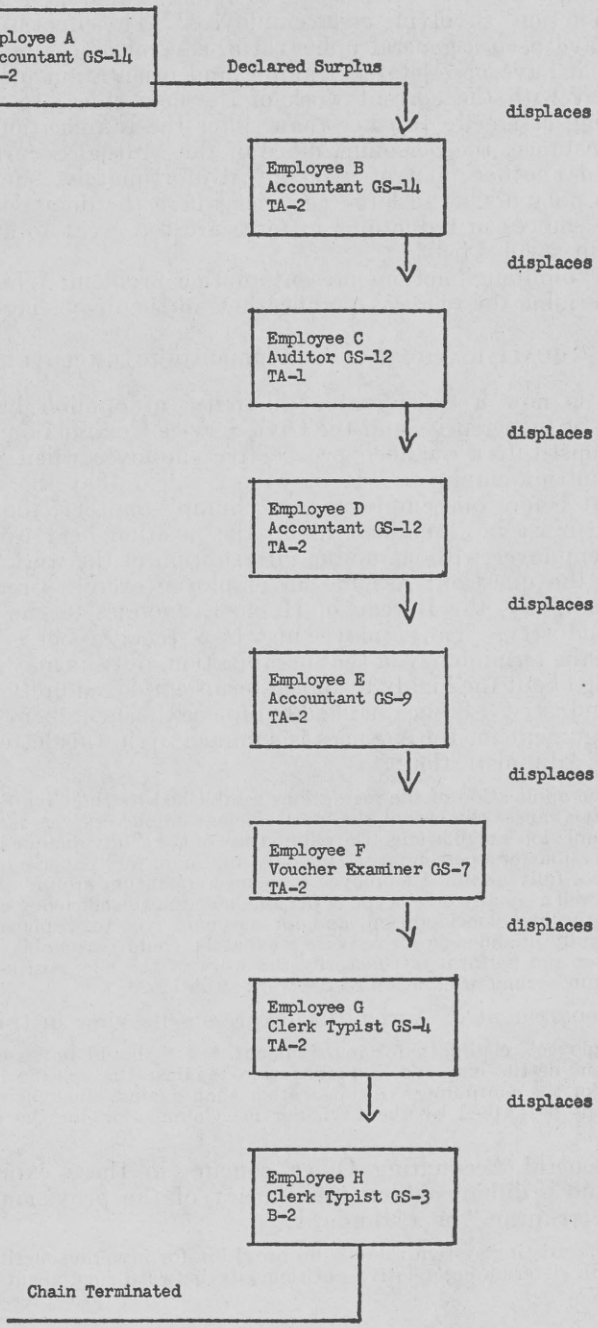
[1] It should be noted that after Sept. 1, 1950, most promotions are designated as indefinite rather than permanent.

Those groups of employees who are entitled to reassignment rights are indicated in chart 5, entitled "Individual Assignment Rights Under the Present Tenure System." This chart also visibly illustrates the administrative complexity of reassignment resulting from the grouping of employees into 23 competing groups and subgroups. It is to be seen, too, that the extra tenure categories (TA and X) that were established as the result of the Whitten amendments have greatly complicated the reassignment process. Now, the administrative task alone of charting employee "bumping" rights to determine whether reasonable offers of reassignment can be made is a time-consuming and complicated chore.

REASSIGNMENT RIGHTS IN ACTION

How do reassignment rights operate in practice? How many employees form a reassignment "chain"? Can the personnel officer be assured that his reassignment "chain" will not break? What happens if a break does occur? These are some of the questions we need to explore if we are to fully understand the administrative implications of the reassignment process as an integral part of the reduction-in-force system.

When the job of an employee who is eligible for reassignment is declared surplus, he is not, under usual conditions, laid off. Rather, he exercises his reassignment rights and is placed in a vacant position or "bumps" another employee who is in a lower retention subgroup (chart 5). He must, of course, be qualified to fill the position held by the lower ranking employee without undue interruption of the work program. A good illustration of the "bumping" process was furnished the subcommittee by the Mutual Security Agency:


Employee A
Accountant GS-14
PA-2
Declared Surplus
displaces
Employee B
Accountant GS-14
TA-2
displaces
Employee C
Auditor GS-12
TA-1
displaces
Employee D
Accountant GS-12
TA-2
displaces
Employee E
Accountant GS-9
TA-2
displaces
Employee F
Voucher Examiner GS-7
TA-2
displaces
Employee G
Clerk Typist GS-4
TA-2
displaces
Employee H
Clerk Typist GS-3
B-2
Chain Terminated

Declaring employee "A" surplus, therefore, would have necessitated a "chain action" involving eight employees. The effect of this action would have been a general upheaval in several offices of the agency and would have necessitated training and orientation for employees unfamiliar with the current work of the new offices to which they were being assigned. Rather than suffer the ramifications involved in this instance, the personnel office of the Mutual Security Agency developed another plan of attack.[47] Unfortunately, such remedial action is not possible in large agencies where the demands upon the personnel offices in reductions in force are too great to analyze and revise unit surplus lists.

These "bumping" actions present another problem: What standard is to determine the relative qualifications of the displacing employee?

QUALIFICATIONS OF THE DISPLACING EMPLOYEE

There is now a considerable difference of opinion between the majority of the agencies and the Civil Service Commission as to what should constitute a qualified prospective employee when "bumping" the incumbent employee. It may be recalled that the regulations state that before one employee can "bump" another, the displacing employee must be "qualified to fill the position held by the lower ranking employee without undue interruption of the work program." To raise the question: Assume an employee exercises reassignment rights from, say, the Bureau of Home Economics to the Bureau of Animal Industry. The employee may be a stenographer who is highly versed in the terminology of that organization, but she may know little or nothing about the highly technical terms employed in the Bureau of Animal Industry. Is she qualified to replace the incumbent employee?

The argument for the agencies is summed up in this letter from the Veterans' Administration:

> * * * the application of the regulations established by the Civil Service Commission often causes the loss of the most efficient employees. A recent revision in the Commission's regulations (the elimination of the "fully qualified" provision) makes it possible for a person possessing only minimum (or "paper") qualifications to displace a fully qualified employee in a lower retention group. In reduction in force as well as in any other type of personnel action the efficiency of the service should be the first consideration, and for one employee to displace another he should be fully qualified in all respects so that he could reasonably be expected to take over and perform satisfactorily the work of the new position with only the minimum normal orientation to the work situation.[48]

The Department of Agriculture expresses its view in this manner:

> The employee's eligibility for reassignment * * * should be based upon the measurement of the employee's qualifications against the specific performance standards for the continuing positions rather than against the general minimum qualifications prescribed by the Civil Service Commission for the class of the position.[49]

The General Accounting Office concurs in these expressions of opinion and is dubious about the efficacy of the provision "without undue interruption" as a standard:

> Under the existing system there is no provision for invoking merit and fitness principles in determining relative entitlements between incumbents and those

[47] Ibid.
[48] Ibid.
[49] Letter from the U. S. Department of Agriculture, dated June 4, 1952.

qualified employees proposed to displace them, but rather the determination is made upon the basis of whether or not the prospective incumbent has the requisite retention standing, has the basic knowledge and skills for the job, and can displace the present employee without undue interruption of the agency's work program.

The "undue interruption" feature is not as innocent as it may appear on its face. The impact of displacements and replacements can be very severe and result in serious impairments and expense to an agency without "undue interruption" to the work program—in fact, the pride in and necessity of accomplishment drives us to take unusual steps to keep the program working in spite of attendant ill effects and inefficiencies.[50]

The Civil Service Commission, on the other hand, is obliged to be rather strict with regard to what shall constitute a qualified displacing employee. Otherwise, many legitimate displacements would fail as "unqualified" under the guise of an objective appraisal. While there appears to be more of a "middle ground" in this inherent difference of views than has been reached, there can be no doubt that if reassignments are going to continue on any appreciable scale, a fairly strict standard must be established and applied. Without such, the charges of "favoritism" would be rampant.

"CHAIN REACTIONS" OF REASSIGNMENTS

The deep concern that agency officials reveal with respect to qualifications reflects, however, only a sympton of the major ill, the plague of extensive reassignments. These "bumping" actions form a chain of displacement actions which shift employees from job to job, division to division, and even bureau to bureau until the actual effect is a "restaffing" of an organization by shuffling employees into new jobs within an agency. The problem is pointed up in a letter from the Veterans' Administration:

In order to separate one employee in reduction in force it often happens that as many as 6 to 8 employees are shifted in the "chain reaction," requiring that an excessive number of employees be trained in the duties of new positions. In a large reduction in force, the displacement and dislocation of trained and experienced employees is widespread, and seriously affects the work of the agency.[51]

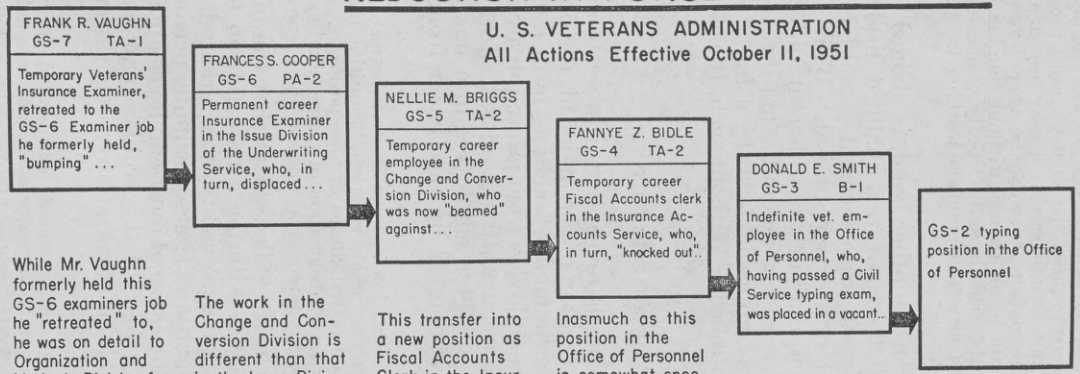
A report from the General Accounting Office states that the major portion of the personnel actions required during a reduction in force is the result of the liberal reassignment rights now granted. It charges that they are the most difficult and time-consuming personnel requirements to handle, as well as the cause of most employee appeals. The report then turns to another aspect of the problem and points out that employee "chains" are liable to break at any time, throwing a double burden on the personnel office:

It is not possible to predetermine these (reassignment) entitlements prior to the initiation of the reduction-in-force program as a major portion of such actions are dependent upon whether such displaced second employee will accept the offer of another assignment to a position held by a third employee with lesser entitlement than he has. and so on, until the last employee proposed to be displaced has no superior entitlement to a position held by an employee in the agency in the local commuting area, and as a result is made no offer. Any reduction in the higher grades generally results in numerous such chains of personnel actions and the employees effected must be given a reasonable time to accept or decline the offers made. Should any of the affected employees decline the offer at any time during the running of the program, the administrative office is forced to reconstruct the entitlements of adversely affected employees

[50] Letter from the General Accounting Office, dated June 12, 1952.
[51] Ibid.

REDUCTION IN FORCE CHAIN ACTION

U. S. VETERANS ADMINISTRATION
All Actions Effective October 11, 1951



While Mr. Vaughn formerly held this GS-6 examiners job he "retreated" to, he was on detail to Organization and Methods Division for five months, thus making a reorientation period necessary, in order for him to fully perform all the functions of Insurance Examiner.

The work in the Change and Conversion Division is different than that in the Issue Division, necessitating a three months' training period for Mrs. Cooper before she would be able to reach full production in her new job.

This transfer into a new position as Fiscal Accounts Clerk in the Insurance Accounts Service from her old job in the Underwriting Service will necessitate a month's training period for Mrs. Briggs.

Inasmuch as this position in the Office of Personnel is somewhat specialized, Mrs. Bidle would have had to undergo a two months' training period to fully perform the functions of it. However, a position in her old division became available subsequent to the reduction in force, to which Mrs. Bidle was promoted. Then, two months later she resigned, due to the uncertain security of a government career, and the Veterans Administration lost a valuable employee.

beginning at the grade level of the position declined, and amend, cancel and issue new notices of proposed actions accordingly. This same situation occurs when an employee who is not affected by the program is separated from the agency and a replacement is required.[52]

REASSIGNMENTS ACROSS BUREAU LINES

The ill effects upon morale and "working effectiveness" which accompany a reduction in force are not limited to those employees who have received either reassignment or separation notices. Nor are they limited to those particular units which are immediately affected by the reduction in force. But the lowering of morale and disruption in the efficiency of the work force pervades the entire agency within a local commuting area, because employees who possess reassignment rights can "bump" employees out of their jobs across bureau lines within a department. For example, an employee who receives a notice in a reduction in force in the Rural Electrification Administration can cross organizational lines and "bump" an employee in the Soil Conservation Service, even though the latter is not now conducting or planning a reduction in force.

The Department of Agriculture, comprising bureaus of vastly varying tasks, has taken a very determined stand on this matter:

> We strongly feel that a fair right of reassignment should be provided for employees who can be clearly classified as career employees. We are convinced, however, that the present application of the Commission's reassignment rights across bureau lines within the Department is the factor that is responsible for the major portion of administrative cost, unrest, confusion, and lowered morale Employees cannot become accustomed to this procedure nor can they completely comprehend the reason for their displacement by an employee of another bureau when there was no actual reduction in force within their own bureau or organization. This procedure has made them all aware and apprehensive of any reduction in force occurring in any part of the Department because they never know when the tentacles of the reassignment procedures are going to reach them. We therefore strongly feel that reassignment rights should not cross bureau lines within a department * * *. We feel also that it is in this area of reassignment across bureau lines to unfamiliar programs and work that real qualification standards, career systems, and the merit system itself suffer most.[53]

Concurring with the Department of Agriculture, and pointing out the advantages of more realistic competitive areas, is the General Accounting Office when it states:

> Many employees, upon seeing a dim reflection of the reduction-in-force specter, begin an exodus from their apparently threatening location, and the best qualified of these employees are generally the most successful in obtaining other employment. These ill effects can be greatly reduced by preventing their spread into stable organizational areas and agency population groups Morale and efficiency may even be improved within the areas affected by affording employees more opportunity to better their retention standing through their own accomplishments.
>
> Provide for more realistic competitive areas than now permitted. It is felt that ample competition could be afforded employees within smaller competitive areas than are now permitted in some cases.
>
> The result [would be] that the competitive levels would sometimes be smaller, and the operation to make employees surplus would affect only employees of the organizational or functional unit incorporated in the competitive area.
>
> The benefits are that the interference with stable organizational areas and agency population groups is reduced, the number of personnel actions required is reduced, and the training of newly assigned personnel is reduced. In addition, the administrative costs of determining "interchangeable" positions between organizational or functional areas would be eliminated for those organizational or functional units not included in the more realistic area.[54]

[52] Ibid.
[53] Ibid.
[54] Ibid.

That this view is not unanimous, however, is illustrated by a letter from the National Federation of Federal Employees which has this to say:

> The competitive areas are sometimes confined to a single location in a specific area, thus eliminating all opportunity for employees to "bump" other employees in the same agency and in the same grades and types of positions who may have little or no experience. In order to secure the advantages and benefits which come about by persons with "know-how", competitive areas should be broadened so as to permit retention of employees whose experience and knowledge do much to lessen the cost of administering governmental functions.[55]

OPERATING EFFICIENCY LOWERED BY WIDESCALE REASSIGNMENTS

The "sacrifice in operating efficiency" which occurs largely as a result of the extensive reassignments in reductions in force was a matter of serious concern to the Hoover Commission. As a result of its own study, this subcommittee does not believe that there exists any practice in Government today which reduces operating efficiency to the extent rampant "bumpings" do in reductions in force. Reports from agency heads and operating officials, and interviews with unit supervisors and scores of employees, all point to the extensive confusion and lowered morale caused by present liberal reassignment rights, and they emphasize the detrimental effects on an agency's operating divisions. Veterans' Administration provides us with a concrete example of its recent experience:

> * * * in one particular division which had been hard hit by reduction in force and had received untrained replacements, production dropped 40 percent the first month. Two units in this division had been completely wiped out and as a consequence the other units' production suffered because they had to help in the training process.
>
> The morale of the supervisors also suffered. On one hand, they were responsible for production and the maintenance of work schedules. On the other hand, they saw their well-trained employees being separated or reassigned to other organizations.[56]

The General Accounting Office reported a similar loss in operating effectiveness:

> It has been estimated by some of the administrative officers in the divisions which were principally affected that the "working-effectiveness" of employees receiving adverse notices was reduced about 50 percent.[57]

The Veterans' Administration emphasizes, moreover, that the problem involves the morale of the entire organization:

> * * * there was a drastic effect on the morale of the approximately 12,000 employees of the Central Office of the Veterans' Administration. About 2,000 notices were initially dispatched to employees; these included letters of dismissal, offers of reassignment, and changes to lower grade. This averaged out to approximately 1 notice to every 6 employees in the total work force. The morale of the employees who did not receive letters suffered since they did not know the extent of the reduction in force * * * the "working-effectiveness" of the employees was drastically lowered. Employee attitude toward meeting the standards of production appears to have suffered in that there was at least a temporary lessening of incentive.[58]

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[55] Letter from the National Federation of Federal Employees, dated June 9, 1952.
[56] Ibid.
[57] General Accounting Office letter of July 3, 1952.
[58] Ibid.

Summary of Part II

This examination of the problems involved in reassignment in reductions in force reveals both the complexities and the extent of the practice in Government.

We have found that the vast number of Federal employees are granted reassignment privileges. The number of personnel actions required to effect a reduction in force is multiplied in order to administer reassignment provisions in the current regulations. The "chain" reactions involved in the extensive "bumping" processes often amount to the virtual restaffing of an agency. Employees are reshuffled not only in their own units but they are frequently reassigned to jobs in other bureaus with vastly different functions. Many of these employees possess only minimum qualifications for their "new" jobs and require training for weeks or months. Moreover, the question of whether an employee is qualified to fill the prospective position, and whether the offer of reassignment is "reasonable," have multiplied the number of employee appeals to the Civil Service Commission.

The confusion and lowered morale which follows in the wake of widespread reassignments cause a serious decrease in employee efficiency and "working-effectiveness." This condition, in turn, reacts to disrupt agency operations and often lowers unit production as much as 50 percent.

Excessive costs are the final result of this widespread practice, often running into hundreds of thousands of dollars (see pt. III).

The subcommittee would be remiss in its duty to the Senate if it did not state unequivocally that the "bumping" system in the Federal establishment seriously damages the working effectiveness of its employees, and sharply reduces the quantity and quality of production in Government. The system is encumbered with maximum attributes of redtape, but with only minimum advantages for the very employees it was designed to benefit.

With these considerations in mind, the subcommittee has developed the following proposal which, in practice, would restrict the application of reassignment rights and do much to solve the major problems they present today in Government.

Proposal No. 3

Mandatory reassignment rights, including both "bumping" and "retreat" privileges, shall be eliminated except for employees with no less than 15 points or an "outstanding" rating.

This proposal, consistent with our prior recommendations relating to tenure, would be based on the total number of credit points. Reassignment rights of an employee would not, therefore, depend upon his tenure status, or "type of appointment," but would reflect a balance of the four retention factors as represented by credit points. Veteran and nonveteran employees would have the right to reassignment at or below their current-grade levels.

The subcommittee is convinced that its proposed action will be highly beneficial to Federal civil service. The disruption of agency activities resulting from the "chain" of reassignments under current regulations would be greatly reduced. The interference with stable

organizational areas and agency population groups would be minimized. The number of personnel actions would be reduced. The administrative costs of determining "interchangeable" positions would be greatly reduced. In addition, the costs of training newly assigned personnel would be reduced considerably. Because of the limited assignment rights, management would have more opportunity in reductions in force to take into account such factors as efficiency of the service, employee performance and the amount of retraining which might be involved in filling continuing positions.

Finally, the tremendous costs which now plague reduction in force, as a consequence of its liberal reassignment provisions, could be reduced by more than half. This, itself, would mean a savings to the Government of thousands of man-hours and millions of dollars a year.

The subcommittee is of the opinion that this proposal could be adopted administratively by the Civil Service Commission, without the necessity of legislation. The Veterans' Preference Act does not provide for reassignment rights. Moreover, there appears to be no indication in the legislative history of the act that reassignment rights are "inherent" within the system. Reassignment rights were not required either by law or regulation prior to World War II, although agencies, at their discretion, could grant such rights. Since World War II, however, Commission regulations have made reassignments an integral part of reduction-in-force procedures.

PART III

THE COSTS INVOLVED IN REDUCTIONS IN FORCE

General

It is apparent that the complex administrative procedures in reductions in force and the indirect effects of reassignment are costly. The question is: How costly? Are the costs of laying off workers in Government departments and agencies as high as one experienced personnel official wrote to the subcommittee:

> Based on our experience, it is believed that the cost in man-hours and money in reduction in force as now administered, in addition to the loss of morale of employees of the agency is far greater than the actual money saved by legislative action requiring a reduction in force.[59]

What this official is saying, of course, is that the greatest economy of all is in not economizing. It would seem difficult to imagine a stronger indictment of the present reduction-in-force system. An objective appraisal of the costs of conducting reductions in force, moreover, frequently provides the charge with a basis in fact.

Criteria for computing reduction-in-force costs

In making our survey and appraisal of layoff costs, the subcommittee recognized at the outset the necessity of reaching a mutual understanding with the agencies as to what constituted common criteria for computing reduction-in-force costs. We therefore arranged a meeting with agency representatives, held in collaboration with the Federal Personnel Council, on February 20, 1952, to discuss the various cost elements. The result of that meeting was the determination of the following administrative costs in agency reductions:

I. Elements in Costs That Were Agreed Upon: [60]

1. Costs entailed in setting up the data; i. e., the determination of which positions are to be affected.
2. The actual mechanics of establishing and maintaining the retention registers.
3. Consultation and planning of the specific reduction in force.
   (*a*) Administrative costs in the Personnel Office.
   (*b*) Operating costs of the involved units.
4. The paper process. (Notices issuing and reissuing, rescissions, extensions, etc.)
5. Counseling (interviews with employees, reassignments within the competitive area).
6. Reassignments and referrals outside the competitive area.
7. Appeals (informal and formal).

[59] Letter from the Mutual Security Agency, undated.
[60] For an excellent itemized account of the administrative costs involved in an actual reduction in force, see exhibit 7, a report to the Subcommittee from the National Production Authority, dated April 18, 1952.

8. Cost of retraining employees who have been "bumped" or "reassigned." (Ramifications of this element play a substantial part in the indirect cost of reductions in force.)

It was recognized that these relatively stable cost factors could be affected from agency to agency by other considerations and result in highly varying administrative costs between agencies for conducting reductions in force. The following variables were agreed upon:

II. FACTORS THAT MAKE FOR DIFFERENT COSTS AMONG AGENCIES:

1. The size of the reduction.
2. The class of work covered.
3. Type of positions affected.
4. Size of the competitive area.
5. Number of competitive areas in the local commuting area.
6. Current labor market condition (recruitment difficulties arising when more employees leave than is contemlpated).
7. Type of the agency.

With the establishment of this criteria as a basis for determining the administrative costs, the subcommittee turned to a consideration of the indirect costs involved in reductions in force.

FACTORS ACCOUNTING FOR INDIRECT COSTS

The bulk of the expense in making staff reductions in Government is the high indirect costs which grow out of the extensive reshuffling, retraining, and lowered morale of employees. The disruption in agency operations which occurs causes, inevitably, a loss of production which increases the total costs of reductions in force. These indirect costs, as may be expected, vary widely from agency to agency and are generally subject to the same influences which make for differences in administrative costs between agencies (see supra). A report from the General Accounting Office made the following comment:

> A major part of the costs of a reduction in force is hidden in the retraining of employees who are assigned to new positions * * * displacing competent employees * * * without regard to whether such displacements would benefit the Federal service. The cost comprises the loss of production of a competent employee, the reduced production of the instructor, and the below-standard production of the employee being trained, and such costs continue until the reassigned employee becomes as proficient on the job as the employee he displaced.
>
> The costs of work operations are increased during the running of any reduction in force because of reduced efficiency resulting from the attendant ill effects of lowered morale, unrest, and confusion, which inevitably accompanies such an operation because of its adverse nature.[61]

It will be appreciated, in view of the foregoing discussion, that any estimate of the indirect costs accompanying a specific reduction in force is necessarily "a shot in the dark." Nevertheless, the subcommittee has found that agency officials have made some rather studied estimates and, in statistical comparisons, these reports have shown considerable similarity. We are of the opinion, therefore, that the mass of statistical data relating to costs which the subcommittee has received from representative departments, agencies, and field installations represents an accurate account of reduction-in-force costs.

[61] General Accounting Office letter of June 12, 1952.

AGENCY CASE STUDIES RELATING TO COSTS

With this consideration of both administrative and indirect cost factors as a background, the actual costs reported by agencies relating to their respective reductions in force will be more meaningful. Selected case studies of agencies with recent experience in making staff reductions are presented below:

1. *Agency A.*—This agency reported administrative costs exclusively. It informed the subcommittee that it cost an estimated $10,000 to lay off 32 of its employees in a routine reduction in force. Ten thousand dollars to lay off 32 employees amounts to more than $312 per employee. This figure includes only the salaries of the people handling the reduction in force procedures in the Personnel Division. It does not include the time employees spent with supervisors discussing their displacement. It does not include the costs connected with the reassignment of personnel. Neither does it include the training and retraining of employees who take new jobs, or return to old ones, within the agency as a consequence of "bumping." In fact, this cost of $10,000 to separate 32 employees in a routine reduction in force does not even include the cost of the paper involved.

2. *Agency B.*—Administrative costs only were reported by this agency, amounting to $20,735. This figure does not include any retraining. Neither was it necessary, in this particular reduction, to refer employees to other bureaus (otherwise, the agency reports, the cost figures would have been higher). The aim was a reduction of 213 positions. Due mainly to the adverse effects of the reduction in force, resignations, transferrals, etc., only 49 employees were finally separated by official reduction in force action. If we measure the costs in terms of the aim of 213 reductions, the costs amount to only $97 for each individual separated. While the voluntary decrease in staff was undoubtedly influenced by the reduction in force, as the agency reports, "Dividing the total estimated cost of the reduction in force by the number of persons officially reduced results in a cost of approximately $425 per person reduced in force." This latter cost appears to be the inescapable conclusion.

These case studies, Agency A and Agency B, represent the administrative costs exclusively in relatively small agencies. Such costs will vary greatly from those in large agencies, where numerous factors are injected to spiral the costs upward (see supra, "Factors that make for different costs among agencies").

The following case studies are illustrative of the cost problem in the large agencies where the administrative work involved and the ramifications of widespread reassignments combine to create excessive costs.

3. *Agency C.*—In this agency our staff investigators worked side by side with agency personnel people in conducting a reduction in force in which 164 employees were to be separated. The statistics gathered during this reduction in force, covering both administrative and indirect costs, reflect in bold relief the cost and complexities of the layoff system.

We found that the personnel office was required to take 1,553 personnel actions over a period of 4½ months. These 1,553 actions

included such paper work as reduction-in-force notices, reassignments at the same grade, offers of lower grade, reduction in force extensions, cancellations of reassignments, reassignments extended, reduction-in-force notices rescinded, employees transferring out, and employees retiring because of reduction in force.

The end result of these 1,553 personnel actions, and reshuffling and confusion they created, was not that 164 people were separated as was planned. Instead only 25 people in the lower grades were involuntarily separated. The reason for this anomaly was that, during the 4½ months period in which reduction in force was taking place, 399 employees left the agency voluntarily. We cannot say that all of the 399 left because of the confusion and reshuffling of the reduction in force. But the agency itself says that 97 workers definitely left because of the reduction in force, and that 200 other employees left the agency because they had received or thought they were in danger of receiving reduction-in-force notices.

The direct administrative costs of conducting that particular reduction in force amounted to a total of 13,000 man-hours, or $33,500. When we consider that the objective of laying off 164 people was never reached, due to the fact that many employees left the agency voluntarily, and that the end result was the involuntary separation of only 25 employees, the direct cost of laying off those 25 workers amounted to more than $1,300 per employee. This does not include the cost of recruiting new employees to fill the vacancies which occurred by voluntary separations.

In addition to these direct administrative costs, the indirect costs of this reduction in force were even greater. These may be measured in terms of the estimated time that branch officials spent in solving the problems that arose, the loss in working effectiveness of its employees, and the time spent in training employees who were shifted into new jobs. Officials of that agency estimated the indirect costs of conducting that reduction in force to be $125,000. When this is added to the direct costs of $33,500, the total cost of carrying out that reduction in force reaches $159,000. If we measure the cost in terms of the 164 people who were to be separated originally, it amounts to more than $900 per individual employee. If, on the other hand, we measure the cost in terms of the 25 employees who were actually separated by reduction in force, the cost is more than $6,000 per individual employee.

4. *Agency D.*—This agency has earned an outstanding reputation for "cost-consciousness," and has better than usual facilities for measuring accurately the actual costs involved in current layoff procedures. The agency's report includes both an account of the administrative costs and the indirect costs of the reduction.

This reduction in force was the result of the reorganization of the auditing functions and corresponding changing in the auditing procedures of the agency. The reduction program lasted for a period of 3 months. Initially, the personnel office dispatched 866 reduction-in-force notices. As the program developed, it was necessary to amend 477 of those actions. Position changes and separations required an additional 984 paper actions by the personnel office. The total number of actions taken reached 2,327 before the reduction was accomplished. There were 229 employees who exercised "retreat" or "bumping" rights. An additional 154 employees exercised "bumping"

rights within their competitive levels and, as a result, were not issued formal notices.

The objective in this reduction in force was the separation of 183 employees. During the course of the program, however, 153 employees who were subject to reduction-in-force action left the rolls of the agency voluntarily, either through resignations, transfers, retirements, etc. Under the rigid layoff procedure, however, once the vast reduction machinery is put into motion it must proceed through a maze of statutory and regulatory redtape regardless of voluntary separations. The end result was the involuntary separation by reduction-in-force methods of only 30 employees.

The administrative cost of this reduction in force reached 15,335 man-hours, or a total of $39,047. When we measure the costs in terms of the 30 employees finally separated by reduction-in-force action, we find an average administrative cost of $1,301 per employee (this cost is almost identical with similar costs in Agency "C"—an agency with closely related conditions).

The indirect cost of this reduction in force as reported by the agency, climbed to the startling total of $405,303. The agency accounts for this in terms of "lost production," including in that item all of the major elements, such as loss of individual production, retraining, and unit adjustment, which go to make up total costs. When we add the administrative cost of $39,047 to these indirect costs, we reach a total of $444,350 for conducting this particular reduction in force. If we measure the cost in terms of the 183 people who were to be separated initially, it amounts to more than $2,422 per individual employee. If, on the other hand, we measure the cost in terms of the 30 employees who were actually separated by the reduction-in-force action, the cost is more than $14,811 per employee.

How we measure the man-hours and costs is really of secondary importance. The truth of the matter is that either $2,400 or $14,000 is too much money for the Government to spend laying off a single worker from the Federal payroll.

Conclusion

The subcommittee has found that the costs of administering the detailed regulations and complex procedures in a reduction in force are so excessive as often to virtually nullify the money savings intended by the action. Measured governmentwide, these costs mean that the Federal Government is wasting thousands of man-hours and spending millions of dollars every year laying off employees. There is no simple solution to the problem. In fact, if we are to protect employee equities arising out of veterans' preference, seniority, individual efficiency, and tenure, reductions in force will continue to be costly actions in Government. As there is no serious disposition to abandon the obligation Government has in this respect, the main job would seem to be to reduce the total costs involved in a manner consistent with layoff objectives.

Proposals for Improvement

The proposals which the subcommittee has advanced for improving the retention formula and for restricting reassignment rights in a reduction in force are susceptible of producing vast savings in terms of both

man-hours and money in the layoff process.[62] The proposal for a revised formula would itself greatly simplify the administrative procedures. In this regard, a report from the General Accounting Office is pertinent:

> The administrative costs of a reduction in force are largely proportional to the number of personnel actions required. Such costs decrease as the regulations become less complex and cumbersome, as the organizational area and the agency populations involved contracts, and as the spread of the grade level of affected employees is lessened. Administrative costs may be further decreased by reducing the incidence of appeals through simplification of the regulations.[63]

Interacting upon the purely administrative procedures, of course, are the extensive reassignment rights now granted to the majority of Federal employees. It is these "bumping" actions, with all their ramifications upon individual and unit production, which are the primary source of the major costs in reductions in force. The subcommittee is convinced that its proposal to restrict the privilege of reassignment to those employees with 15 or more retention points alone could well cut the costs of reductions in force in half. It would eliminate the major part of the "bumpings" which now disrupt agency operations through widespread reshuffling of employees. It would reduce the amount of retraining which is now necessary for employees caught in the reduction-in-force process. Finally, it would do much to halt the lowering of employee morale, reduce the high resignation and transfer rate, and insure continued high individual and unit production throughout agency reductions in force. In this way, the subcommittee believes the major problem of excessive costs in reductions in force will be solved.

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[62] See supra, proposals 1, 2, and 3.
[63] Ibid.

PART IV

EMPLOYEE MORALE AND SECURITY

General

Throughout our examination of the reduction-in-force procedures we have cited their impact upon employee morale and security.

First, we found the formula for determining the order of layoffs in reductions to be imbalanced: tying the priority of separations to the "type of appointment" held frequently results in severe inequities; the breakdown of individual efficiency as an important factor in layoffs lessens employee incentive; the absolute preference of veterans over nonveterans, regardless of length of service, diminishes the job-security and productivity of nonveteran career workers; and restricting the application of veterans' preference within tenure categories operates to the disadvantage of the preference employees with less than permanent status.

Second, the maleficent "bumping" system was seen to spread unrest and confusion through entire departments, shifting employees from job to job, unit to unit, bureau to bureau, until a majority of the personnel find themselves in entirely different offices, occupying "new" jobs for which they may possess only minimum qualifications. Even employees in stable functions are often upset and apprehensive when reductions in force occur in other bureaus, lest they are displaced in the widespread "chain reactions".

Third, we have witnessed the effect on thousands of highly skilled and experienced Federal employees whose salaries are cut and whose grades are reduced in reductions in force. These "downgrading" actions are applied extensively, and the bulk of them affects employees whose grades originally are not very high. At the same time, it is just this group of employees who represent the broad working base of an organization. The result of the "bumping" procedure, therefore, is scores of downgraded workers in "new" jobs whose pride, morale, incentive, and job-security are at an unprizable low.

Fourth, numerous problems confront the workers actually laid off, as distinguished from those reassigned. Those employees who are separated, as a result of their positions being eliminated, currently have no real assurance of being reemployed if funds or work conditions are such that similar positions are reestablished in the future. Moreover, the program for channeling displaced workers into jobs in other agencies where their services are needed is not fully effective. Finally, those employees who have no leave accumulated are put out of a job without any financial security or "cushioning" whatsoever; present leave laws—none too generous in any event—prohibit substantial leave accumulation, and Federal employees do not have the benefits of either unemployment compensation or severance pay.

Finally, we learned that disabled veterans and nonveteran career workers who have been injured on the job in Federal service are often

separated in reductions in force. Our attention was drawn particularly to those laid off with serious physical disabilities. The separation of these employees, whose chances at other employment are only slight, consistently engendered the bitterness of fellow employees.

All of these aspects of the layoff procedure combine to create a morale and job-security problem of the highest importance. Much of it could be avoided. The fact is, there is not even a vestige of a policy or practice in reductions in force which supports employee morale and security. It is true that some agencies have made energetic efforts to alleviate the conditions, but even they are limited in the actions they can take.

GOVERNMENT'S STAKE IN EMPLOYEE MORALE AND SECURITY

What interest is employee morale to Government? It may be simply stated: high morale and a feeling of security means high individual and unit production. It means low operating costs. And it means that Government is able to rehire its former workers and attract new employees in such skills, at such times, and in such places as they are needed. The problem is the same for Government as that reported for industry:

> The qualitative aspects of maintaining an efficient workforce include [these] considerations in reducing forces: * * * (3) Consideration needs to be given to the effects on morale resulting from the manner in which workers are laid off or retained in employment. In various ways, employee morale affects labor productivity. Another possible consideration is the effect on management's public relations. Layoff practices that are regarded as unfair may adversely affect the * * * ability in the future to secure and retain a satisfactory labor supply. Consequently, managements are vitally interested in arriving at satisfactory methods for handling layoffs.[64]

The confusion, insecurity, and uncertainty which accompanies a layoff in Government, under present procedures, cost the taxpayers thousands of dollars in lost production every year. The actual figures reported by the agencies, cited in our appraisal of costs, confirm this fact.

LOW MORALE MEANS HIGH TURNOVER COSTS

An additional cost is that caused by the heavy volume of resignations and transfers which occur during the identical period in which agencies are laying off workers. The number of employees "quitting" as a consequence of the hurly-burly in layoff procedures is so great that in numerous instances, agencies have had to conduct recruiting campaigns to hire new workers when the reductions were over. The turnover rate has spiraled to 100 percent in some cases.

The Veterans' Administration reported to the subcommittee its personnel turnover during the recent reduction in force in these terms:

> [Over a period of 1½ months] * * * 721 employees left the central office of the Veterans' Administration by voluntary resignation, transfer, or retirement. From available records * * * there is every reason to believe that the majority of the voluntary resignations and transfers, and a number of the retirements, were due to the uncertainty or insecurity caused by the reduction-in-force procedures. It is clear that the increase in our turnover immediately following the RIF period resulted from the feelings of insecurity which the RIF engendered among the employees while it was pending.[65]

[64] Layoff Policies and Practices, 1950, industrial-relations section, department of economics and social institutions, Princeton University, Princeton, N. J.

[65] Letter from the Veterans' Administration, Jan. 25, 1952.

The result was a new recruiting campaign on top of a reduction in force:

> Because of higher than normal turnover after the RIF was completed, the Veterans' Administration was faced with the necessity of again hiring a considerable number of clerks.

But some of the employees, already trained and experienced in the work of the Veterans' Administration, would not return:

> The agency was able to reemploy 166 of the employees separated during the RIF. Seventy-five more were offered jobs, but declined.

The Fiscal Service, Treasury Department, sums up the impact of current layoff procedures on personnel turnover:

> A reduction in force * * * causes many excellent employees to look elsewhere for employment, even though they would not be affected by the reduction in force. Under present labor conditions, the threat of a reduction in force increases turnover in shortage category positions which would not be affected and for which replacements cannot be obtained.[66]

The costs involved in employee turnover alone, therefore, are enough to cause Government serious concern.[67] We believe that these costs are high enough to warrant a fundamental revision of reduction-in-force policies and practices. This is particularly true when we realize that the total rate of personnel turnover in Government, for all reasons, is about 33 percent, or nearly one-third of the total Federal working force.

FORMER EMPLOYEES DECLINE FEDERAL EMPLOYMENT

Many employees skilled in their trades who formerly worked for the Government refuse to reenter the Federal service because of the lack of security caused by the present reduction-in-force policies. The Naval Gun Factory in Washington, the Boston Navy Yard, and the Charleston Navy Yard all report that they cannot rehire the majority of their skilled former employees due to the insecurity resulting from the layoff policies currently in effect.

Personnel directors also report that it is almost as difficult to hire new personnel for these same reasons.

MUCH IMPROVEMENT IS NEEDED

For the foregoing reasons, therefore—and quite apart from any paternalistic ones—our Government, as an employer, must be concerned with and promote the morale and security of its workers. The area of layoffs offers that opportunity. Indeed, in no other area of personnel management do we believe that so much can be accomplished for the betterment of employee morale and security as in the whole range of reductions in force. Improvement in this area, to reemphasize a point, will do much more than save taxpayer dollars; it will open the way for employees to make their maximum contribution in the public service, while experiencing substantial job security and individual dignity in the employ of the Federal Government.

With these considerations in mind, the subcommittee has formulated a "network" of proposals designed specifically to avoid the lowered

[66] Letter from the Treasury Department, including report, dated Jan. 28, 1952.
[67] See Exhibit 8: The Cost Involved in the Turnover of Personnel; Personnel Handbook, Ronald Press Co., New York, 1951, pp. 461–462.

morale which now accompanies reductions in force and, in a positive way, to promote a feeling of individual security in Federal employment.

PROPOSALS TO STRENGTHEN EMPLOYEE MORALE AND SECURITY

A. AGENCY ACTIONS PRIOR TO INITIATING LAYOFF PROCEDURES

The subcommittee believes that the first responsibility upon agency officials, when a reduction in force is imminent, is to furnish advance information to its employees. We have found that early notice of a reduction in force, while it sometimes has serious disadvantages, has the following advantages:

(*a*) It shows the employee that the agency is giving him all the help it can and is trying to prepare him for something which may seriously affect him.

(*b*) It may help to save good employees by keeping them from acting in uncertainty when they have no official information.

(*c*) It prevents rumors and circulation of wrong information.

(*d*) It permits employees to present information which might otherwise be overlooked, before an actual retention register is processed.

(*e*) It may result in transfer of employees who would otherwise be separated in a reduction in force.

(*f*) It enables employees to make personal adjustments.

In this connection, a quotation from a letter by the Personnel Director of the Federal Housing Administration to his field personnel officers, is in point:

> To set at rest the many uncertainties and fears that are aroused by the cumbersome reduction in force procedures and those inevitable rumors that attend such an action, may I suggest from the experience we have had that you give all employees as soon as possible an explanation of the need of this reduction in force, its extent, and the assurance that every effort will be made to promptly place those affected.[68]

With such an approach, the agencies should find that some of the confusion and uncertainty will be eliminated. Supplementing this informal action is the following recommendation:

Proposal No. 4

Prior to initiating reduction in force procedures, agencies will attempt to reassign internally or transfer to other agencies such individuals as may be separated in reduction in force.

The subcommittee believes that this type of positive action on the part of agency officials will do much to alleviate the lowered morale and uncertainty which now accompany reductions in force. It should greatly reduce the impact of layoffs on operating efficiency. Finally, it should channel experienced Government employees into various internal units and into other governmental agencies where vacancies exist without having to be actually laid off. This proposal restates and embodies existing policy and will not require legislation. The advantages of such preliminary action, however, convinces the subcommittee that such work should be recognized and formalized by way of administrative action.

[68] Letter from the Director of Personnel, Federal Housing Administration, dated July 27, 1951, to field personnel officers. See exhibit 12.

B. THE PROBLEM OF DOWNGRADING EMPLOYEES

It is doubted that any factor contributes more to the lowered morale, loss of incentive, and feeling of insecurity than does the practice of demoting employees during reductions in force. Employees who have spent many years in the public service, who have gradually earned their grades, are abruptly reduced in both grade and salary. This necessitates, in turn, a substantial personal adjustment both in the office and at home. The actual money involved is probably not as important to the individual employees as the loss in grade. In fact, the amount of money often does not vary appreciably from the remuneration in the higher grade level. But the harm that such demotions can do, in terms of morale and security, is substantial. A case example of such grade reductions is that of the following employee:

Miss Olive Ellison, TA–2, GS–5, with almost 11 years of service. This is a chronological order tabulation of Miss Ellison's experience in the Production and Marketing Administration, Department of Agriculture.

Transfered from Commerce Department, July 24, 1943, statistical clerk, GS–4.

Promoted June 14, 1944, to statistician, GS–5.

Demoted August 21, 1947, to statistical clerk, GS–3, because of reduction in force.

Promoted February 8, 1948, to statistical clerk, GS–5.

Demoted June 30, 1950, to clerk-typist, GS–3, because of reduction in force.

Promoted November 7, 1950, to statistician, GS–5.

Demoted January 8, 1952, to statistical clerk, GS–4, in lieu of reduction in force. [69]

The experience of this career employee is only illustrative of the scores of similar cases in Government today. Downgrading is an integral part of the current reduction-in-force system and its effects, on both morale and security, is highly damaging to both the quantity and the quality of an agency's work. For example, we have found that in many cases where individuals are reduced in grade during reductions in force, they spend a great deal of time and effort over the course of 1 or 2 years attempting to regain their old grades. This is very understandable. In most of the cases we have examined, moreover, the agencies have been successful in giving back to the employees their former grades.

The extent to which downgrading is used as a device in reduction in force may reflect its impact on Government operations. The Veterans' Administration reported that in its most recent reduction in force 378 employees of the central office of the Veterans' Administration were downgraded as a consequence of the layoff action. The General Accounting Office informed us that 272 employees were downgraded in its reduction in force. The Federal Housing Administration cited 160 employees who were reduced in grade during its reduction in force. It is important to recognize that one such action does not end the downgrading. In every successive reduction in force, additional downgrading actions occur. The effects on employee morale, incentive, and "working effectiveness" are apparent. Thus, the subcommittee recommends the following action:

Proposal No. 5

Individuals with 10 points or less than 15 points who are reassigned to lower grade positions by reduction in force shall retain the grade

[69] Letter from the Production and Marketing Administration, dated February 18, 1952.

previously held for 6 months; those with 15 but less than 20 points, 1 year; and those with 20 points or more, 2 years. Agencies and the Civil Service Commission are required to attempt to place individuals in positions equivalent to the grades held prior to the reduction in force.

This proposal would allow the employee to retain his grade for a period of time after the actual reduction in force takes place. It would allow, in this manner, a period of time for the agency to readjust itself and, if possible, secure a vacancy for the employee and avert the downgrading action. Such a proposal introduces the concept of the individual having a rank or grade of his own which, in reductions in force, would be beneficially different from the rank and compensation conferred by the job he occupies.

The subcommittee is convinced that this proposal would be of great benefit in lessening the impact reduction in force now has on the morale, incentive, and security of Federal employees. The proposal would require an amendment to the Classification Act of 1949.

C. REEMPLOYMENT RIGHTS IN REESTABLISHED POSITIONS

Proposal No. 6

In the event an agency eliminates a position during reduction in force and within a 6-month period thereafter reestablishes such position, or one with similar qualifications, individuals separated or reduced in grade as a result of such position elimination shall be given the right to be reemployed in the reestablished position.

The subcommittee feels that this proposal is important as supplementing those mandatory reemployment rights which furloughed employees are now accorded. We found during the course of our investigation that, in numerous instances, employees were laid off during reductions in force as a consequence of position eliminations and that, a short time later, the position was reestablished. Unfortunately, the employee who was laid off or reduced in grade wa not given the opportunity to be reemployed in such position. This device was occasionally resorted to as a means of discharging unsatisfactory employees. There can be no greater violation of employee rights, or disservice to reduction-in-force principles, than to resort to such means for separating employees who may no longer be desired. It violates the basic tenet of reductions in force: that no person laid off in a reduction in force is separated because of inefficiency or cause.

We also believe that the present policy whereby employees who are furloughed through reduction in force are given priority for reemployment in positions within their competitive area for which they are available and qualified for a period of 1 year from the date of notification of reduction in force should be continued and adhered to both in the letter and in the spirit.

D. PLACEMENT OF EMPLOYEES SEPARATED IN REDUCTIONS IN FORCE

It is inevitable that an employer as large as the United States Government frequently will be confronted with the need to recruit employees in some agencies while conducting reductions in force in other departments. This is occasioned by increased emphasis on

certain programs—defense, for example—and a decreased emphasis on others, such as agriculture and veterans' affairs. The problem is to determine the best method of placing employees who have been, or are about to be, separated in a reduction in force. Particularly, how can we place employees in agencies requiring additional personnel without resorting to mandatory actions which, in the end, are likely to cause agency aggravation. A good placement program, energetically administered, would undoubtedly do much to reestablish good morale and a feeling of job-security among employees even during reductions in force.

Objectives of employee placement.—The objectives of employee placement have been succinctly stated in a report approved by the Federal Personnel Council on January 24, 1952, entitled "Reduction in Force Procedure—Placement of Available Career Employees." These objectives are as follows:

(*a*) To provide the Federal Government with a means to readily utilize employees whose abilities are surplus to the needs of one agency and in demand by another. (This would facilitate the orderly absorption of employees released from work without requiring the displacement of present employees who are rendering satisfactory service.)

(*b*) To provide means whereby career employees made available for new assignments through reduction in force may have a better opportunity for selection for positions in which their skills are needed.

(*c*) To avoid bringing new employees into government at a time when, and in positions for which, experienced career employees are available.

(*d*) To provide a method whereby career employees will, for 1 year from the last day of active duty, be eligible for reemployment without loss of status or tenue, and during this 1 year be entitled to uniform benefits (retirement, leave, service credit, etc.).

Informal actions by individual agencies.—The subcommittee is glad to report that a number of agencies, having conducted reductions in force in recent months, have taken informal actions themselves to place employees who are being separated. These included efforts to place employees in both governmental and private employment and were, in most cases, highly rewarding.[70] A report from the General Accounting Office summarizes its placement activities in these terms:

We made plans for the out-placement program before the first notices were issued, and when such notices were issued, we promptly made telephone contacts with the personnel offices of 82 Federal employment offices, which number now has grown to 114. Contacts with other agencies were not made in advance of the official notice given to employees, because it was not deemed administratively advisable to circulate information as to the reduction in force ahead of advice being given to the employees, and besides, we would not earlier have been able to advise other agencies as to the personnel, by positions and grades, which would be adversely affected. In making contacts with other Federal agencies, we advised them generally as to the occupational capacities and abilities of the employees to be affected and answered any pertinent questions asked by the representatives of the agencies. We sought from them the kinds and grades of existing vacancies which they had and offered to make available to them the personnel files of any of our adversely affected employees which they wished to consider. We invited the agencies to send their representatives to review the files and provided interview space for those sending representatives to consider our employees and review their records.

Our out-placement program has yielded substantial results and indications are that by the close of the program many more of our employees will be placed in other Federal agencies.[71]

[70] See Exhibit 13. Letters illustrative of fine degree of cooperation between the Federal Housing Administration and the Civil Service Commission.

[71] Letter from the General Accounting Office, dated March 13, 1952.

The Securities and Exchange Commission conducted a similar placement program and reveals considerable success:

> * * * we approached several defense agencies to see whether they would be interested in obtaining the services of some of our employees. We felt that if a number of employees could be transferred, involuntary separations (and the attendant demoralizing "retreat" and "bumping" actions) would be held to a minimum, and at the same time the defense agencies would gain the services of vitally needed experienced personnel. Letters were addressed to agencies such as the Defense Production Administration, the National Production Authority, the Department of the Air Force, and the Office of Price Stabilization, outlining the Commission's anticipated fiscal problem and offering for transfer a number of employees with very useful training and experience. Favorable responses were received from several of these agencies. As a result of this program, 22 employees, predominantly in the professional category, were transferred to defense agencies.[72]

The subcommittee commends this type of activity to all Federal departments and agencies. It is obvious that accomplishments in this manner will greatly reduce the placement burden on the Civil Service Commission and will result in the employment of skilled employees in other Federal establishments with the least possible delay.

With the experience of numerous agencies in mind which have successfully employed this informal approach, the subcommittee recommends that a procedure be established whereby employees are provided advance information relating to vacancies for which they are qualified. This recommendation is embodied in the following proposal:

Proposal No. 7

Employees with 15 points or more separated or reassigned to lower grade positions by reduction in force shall be given advance information regarding existing vacancies for which they are qualified in any agency in their geographical area and an opportunity for an interview by the organization where the vacancy exists.

This proposal has a twofold purpose: to afford the experienced employee maximum opportunity for job openings and to insure continuity in the Government service of people with experience and merit. It is an attempt to improve the displaced career employee program. We feel that the former program was met with undue resistance on the part of the agencies themselves. We also have reason to believe that many of the employees who were reduced made little effort to obtain employment in other agencies, feeling in effect that the Commission ultimately had the major responsibility. Our proposal provides no guarantee of actual employment; it merely provides the displaced employee with the first opportunity of being interviewed by the personnel office in the agency with the vacancy. The procedure will mean some additional paper work for the agencies in that it will be necessary for every agency in a particular area to notify the Civil Service Commission of their vacancies as they occur. The Commission will then be required to circularize agencies in the area with lists of occupational categories in which displaced career employees are to be found, and the agencies, in turn, will be expected to notify the Commission in advance before they fill such vacancies.

[72] Letter from the Securities and Exchange Commission, dated March 11, 1952.

E. ADVANCED ANNUAL LEAVE FOR DISPLACED EMPLOYEES

The subcommittee believes that some measure of economic security must be established for employees who are separated in reductions in force. In the absence of both unemployment compensation and severance pay, and with leave privileges restricted by present law, the subcommittee is recommending the following action:

Proposal No. 8

In the event employees with 15 or more points separated by reduction in force have not been successful in placement, and they desire to continue their Government career, they will be retained on the payroll until the expiration of all annual leave, and at the discretion of each agency, be advanced up to 1 year's leave accumulation. The Civil Service Commission shall formulate rules and regulations governing such actions.

Congress would be expected to share the responsibility for this type of employee-security by way of appropriations to the agencies granting advance leave to career employees.

F. SEPARATING EMPLOYEES WITH SERIOUS DISABILITY IN LINE OF DUTY

The subcommittee has found that numerous employees, veterans and nonveterans, have been separated in reductions in force despite substantial physical handicaps incurred in line of Federal civilian or military service. Illustrative of this type of separation are the following cases cited in the report from the Bureau of the Mint, Department of the Treasury:

The following employees with serious service-connected disabilities were separated in reductions in force in the Bureau of the Mint:

(1) Karl W. Miller, helper, Philadelphia Mint: This employee, a nonveteran, was injured at the Philadelphia Mint on August 20, 1947. The injury caused by the crushing of fingers in a mutilating roll in the Coining Division, resulted in a traumatic amputation of the right index and middle fingers. This separation case involved real hardship for the employee and his family. He spent 3 years of unsuccessful search for suitable employment, and was finally placed at the Frankford Arsenal.

(2) Mrs. Marie Donovan, clerk, GS–3, Philadelphia Mint: Mrs. Donovan, a nonveteran, was injured by a fall while on duty at the Philadelphia Mint. This fall resulted in injury to the right hip, which confined Mrs. Donovan to a hospital for a prolonged time, and required several operations. Due to a reduction in force at the mint in the position of clerk, GS–3, Mrs. Donovan was separated while hospitalized.

(3) George T. Wilson, roller "A," Denver Mint: Mr. Wilson, a nonveteran, was injured in the line of duty at the Denver Mint, when his right hand was caught in a rolling mill. The hand was badly mangled, necessitating several operations and the eventual loss of three fingers. Mr. Wilson returned to duty after several months * * * and in spite of this handicap, he handled his workade quately and was promoted to the position of senior roller in May 1944. Finally, he was reached for reduction in force and was separated from the service. This separation created a real hardship for himself and his family. It was exceedingly difficult to obtain work he was trained for and physically able to do.[73]

Numerous attempts have been made in Congress and in the executive branch over the past few years to establish physical disability, incurred either in line of Federal military or civilian service, as a retention factor in reductions in force. The problem is clearly one that should be solved as it involves what might be termed an "unconscion-

[73] Letter from the Treasury Department, dated January 28, enclosing report from the Bureau of the Mint, dated January 24, 1952.

able inequity." However, there is a serious administrative problem that hampers the adoption of an equitable plan. For example, there would be substantial red tape and administrative difficulty involved in determining the extent of disabilities in individual cases. This type of retention preference, also, would lead to considerable pressures from veterans' organizations, employee groups, citizens' groups, and Congress, all supporting respective individuals in their claims of disability.

The subcommittee would like to cite the work by the Federal Personnel Council in this area. The Separations Committee of the Council has had this problem under consideration for some time and has devoted attention to means by which effect could be given to "substantial handicaps incurred in line of Federal civilian or military service." The Council, itself, favors giving special preference to seriously disabled veterans in examination and retention. It also favors the same preference for civilian employees who are seriously disabled as a result of injury in line of duty in the Federal service. The Separations Committee of the Council plans to continue its work on the means which might appropriately be used to give effect to substantial physical handicaps and report again to the Council as to possible constructive and flexible lines of approach on which regulations might be based.

We believe that the best possible legislation or administrative action in this area is possible through the studies of the Federal Personnel Council. The subcommittee should like to encourage the Council in this endeavor and to urge them to reach conclusions and report to the Civil Service Commission at the earliest possible time.

The subcommittee further believes that, in the meantime, agencies should take all possible actions consistent with law and regulations, to move those with Federal military or civilian service-connected disabilities out of the levels of competition for reduction-in-force purposes. Such action will not only insure a measure of security for those injured in line of duty, but it will do much to bolster the morale and "working effectiveness" of employees throughout entire agencies.

Comments Relating to the Proposals for Improving the Reduction in Force System in the Federal Government

PROPOSAL	PROBLEMS SOLVED
1. All categories based on type of appointment should be eliminated and reduction in force accomplished on a point basis within each competitive level, governed by the following factors:	(*a*) Eliminates the cumbersome tenure or "type of appointment" categories which now render reduction in force unnecessarily complex and confusing.
(*a*) *Years of service.*—One point for each year of civilian service and two points for each year of military service.	(*b*) Insures that Government does not lose efficient employees with many years of experience and service.
(*b*) *Military preference.*—Two points for each year of military service. Preference employees with "satisfactory" ratings or better to be retained in preference to all other competing employees with equal number of points (competing employee is defined as one having the same number of points as another employee).	(*c*) Reestablishes efficiency, or individual merit, as a vital consideration in reduction in force.
(*c*) *Performance rating.*—Four points for an "outstanding" rating.	(*d*) Provides veterans with preference over all other employees with equal number of points, and grants veterans "double" points for each year of military service.
	(*e*) Recognizes a permanent-appointment employee and grants an additional 3 points for use in establishing retention preference.
	(*f*) It provides additional protection

PROPOSAL	PROBLEMS SOLVED
(*d*) *Tenure* (*type of appointment*).—Three points for permanent type of appointments.	for the thousands of new veteran employees who at present have less than permanent appointments.
2. Recognizing that under certain conditions the retention formula proposed by the subcommittee will not permit the retention of meritorious and essential employees, the head of each agency is given the authority to except from the regular order of selection a maximum of 5 percent of the employees to be affected by the reduction in force, upon certification that the excepted employees possess qualifications peculiar and essential to the continued efficient operations of the agency. The Civil Service Commission will postaudit such exceptions.	(*a*) Insures that agencies may retain meritorious employees who are essential to the future efficient operations of the agency. (*b*) Eliminates substantially the reluctance on the part of many supervisors to economize in the use of personnel, and cause a reduction in force, for fear of losing their most efficient and experienced personnel.
3. Mandatory reassignment rights, including both "bumping" and "retreat" privileges, shall be eliminated except for employees with no less than 15 points or an "outstanding" rating.	(*a*) Cuts the cost of reduction in force substantially—well over 50 percent—in terms of man-hours and dollars. (*b*) Eliminates the major part of the "bumpings" which now disrupt agency operations through widespread reshuffling of employees. (*c*) Reduces the amount of "retraining" now necessary for agency employees who are caught in the reduction-in-force shuffle. (*d*) Halts depressing employee morale and security throughout the agency, and the resultant ineffectiveness of agency operations. (*e*) Avoids in great part the high resignation and transfer rates which now inevitably occur during reductions in force. (*f*) Protects those employees with sufficient points by affording bumping and retreat privileges.
4. Prior to initiating reduction-in-force procedures, agencies will attempt to reassign internally or transfer to other agencies such individuals as may be separated in reduction in force.	(*a*) It tends to alleviate a serious morale problem during the reduction-in-force period. (*b*) It reduces the impact of reduction in force on operating efficiency. (*c*) It channels experienced Government employees into various internal units and into other Government agencies where vacancies exist.
5. Individuals with 10 points or less than 15 points who are reassigned to lower grade positions by reduction in force shall retain the grade previously held for 6 months; those with 15 but less than 20 points, 1 year; and those with 20 points or more, 2 years. Agencies and the Civil Service Commission are required to attempt to place individuals in positions equivalent to the grades held prior to the reduction in force.	(*a*) Avoids the lowered morale now caused by downgradings during reductions in force (many of those downgraded are subsequently returned to their previous grades in any event) and reduces the strain now caused by individual and group adjustment.
6. In the event an agency eliminates a position during reduction in force and within a 6 months' period thereafter reestablishes such position, or one with	(*a*) Affords the former incumbent of the position an opportunity to be reestablished in his job when it is found that the position continues to be neces-

PROPOSAL	PROBLEMS SOLVED
similar qualifications, individuals separated or reduced in grade as a result of such position elimination shall be given the right to be reemployed in the reestablished position.	sary and improved budgetary or other conditions now make it possible.
7. Employees with 15 points or more separated or reassigned to lower grade positions by reduction in force shall be given advance information regarding existing vacancies for which they are qualified in any agency in their geographical area and an opportunity for an interview by the organization where the vacancy exists.	(*a*) A step designed to afford the experienced employee maximum opportunity for job openings. (*b*) To insure continuity in the Government service of people with experience and merit.
8. In the event employees with 15 or more points separated by reduction in force have not been successful in placement, and they desire to continue their Government career, they will be retained on the payroll until the expiration of all annual leave and, at the discretion of each agency, be advanced up to 1 year's leave accumulation. The Civil Service Commission shall formulate rules and regulations governing such actions.	(*a*) In the absence of unemployment compensation, or severance pay, provides a much-needed means of security for the individual Government worker, especially as the majority of those separated in reduction in force will have only a few days leave under the present graduated leave system.

Prepared by the Subcommittee on Federal Manpower Policies, United States Senate, November 1952.

EXHIBITS

EXHIBIT 1

The Congressional Intent of the Veterans' Preference Act Relating to Reductions in Force

The Veterans' Preference Act of 1944 (58 Stat. 390, 5 U. S. C. sec. 861), was enacted into law by the 78th Congress as part of a legislative program designed to codify all provisions granting military preference to veterans in connection with appointment and retention in civilian positions in the Federal Government.

Section 12 of the Veterans' Preference Act of 1944, which deals specifically with reductions in force, reads as follows:

"In any reduction in personnel in any civilian service of any Federal agency competing employees shall be released in accordance with Civil Service Commission regulations which shall give due effect to tenure of employment, military preference, length of service, and efficiency ratings: *Provided*, That the length of time spent in active service in the armed forces of the United States of each such employee shall be credited in computing length of total service: *Provided further*, That preference employees whose efficiency ratings are 'good' or better shall be retained in preference to all other competing employees and that preference employees whose efficiency ratings are below 'good' shall be retained in preference to competing nonpreference employees who have equal or lower efficiency ratings: *And provided further*, That, when any or all of tne functions of any agency are transferred to, or when any agency is replaced by, some other agency, or agencies, all preference employees in the function or functions transferred or in the agency which is replaced by some other agency shall first be transferred to the replacing agency, or agencies, for employment in positions for which they are qualified, before such agency, or agencies, shall appoint additional employees from any other source for such positions."

The legislative purpose of this act was to grant honorably discharged veterans "preference in employment where Federal funds are disbursed" and to codify a governmental policy of extending "certain benefits to those who have risked their lives in the armed services during wartime" (H. Rept. 1289 on H. R. 4115, 78th Cong., 2d sess. (1944) 1). As a general declaration of policy, it was said (H. Rept., op. cit., supra, 3):

"Private employers and corporations, as well as State, county, and municipal governments, have been urged through the selective-service law and otherwise to afford reemployment to veterans when they leave the Armed Forces. Your committee feels that the Federal Government should set the pace, and that this proposal is an essential part of the reemployment and rehabilitation program. The committee is of the opinion there should be put in one statute all provisions granting military preference in connection with civilian employment by the Government, in order that there may be statutory authority for the preference to be granted veterans in connection with appointment and retention in civilian positions."

At the time legislative proposals for veterans' preference were receiving preliminary consideration, President Roosevelt, in a letter to the chairman of the House Civil Service Committee, urged its adoption, and recommended the inclusion, among other things, of provisions under which "Veterans should be accorded special consideration in connection with any reductions in total personnel which it may be necessary for Federal agencies to work out from time to time" (H. Rept., op. cit., supra, 4–5). Section 12, previously quoted, was incorporated at the suggestion of the Civil Service Commission, in lieu of a provision in a preceding bill, H. R. 882, to the effect simply that in reductions of personnel, employees should be released in the inverse order of the length of their total service, with credit given for length of time spent in the Armed Forces (H. Rept., op. cit., supra, 6).

Neither the House nor Senate reports on the Veterans' Preference Act contain any particularizations as to congressional intent with respect to reductions in force,

other than such general statements as, for example: "Section 12 provides the procedure to be followed in case of reduction of personnel in an agency, and requires that preference be given veterans" (S. Rept. 907 on H. R. 4115, 78th Cong., 2d sess. (1944) 3; see also H. Rept. 1289 on H. R. 4115, 78th Cong., 2d sess. (1944) 4). "Section 12 provides for procedure in any reduction in personnel in any civilian service of any Federal agency, specific provisions appearing with respect to the preferred status of veterans in retention." The limited discussions on the floor of the House and Senate likewise afford no further evidence of specific intent in this regard (see 90 Congressional Record 3501–3507, 4959, 5784–5785, 6283). However, the author of H. R. 4115, Mr. Starnes of Alabama, made the following general statement on the floor of the House (90 Congressional Record 3502):

Mr. Speaker, from the very inception of our Republic our Government has extended certain special benefits and privileges to the men who have offered their lives in the defense of the country and its institutions. This is a sound principle. Those who are selected from among us to wear the uniform and to serve the country on the firing line are certainly entitled, when peace has been won through their efforts, to be selected and given special consideration and preference in employment by their Government in peacetimes. That is a reward to an American who has willingly and gladly offered his life in an effort to save and sanctify for us the principles of government under which we live, and which by their sterling efforts is being handed on to posterity.

"Most of the provisions of this particular bill have been in practice for a number of years. Since World War No. I various Executive and administrative orders have extended to veterans throughout this country privileges in Government services. However, it is a matter of regret to me that the Congress has not heretofore established by law preference to veterans in Government employment. This is the first step in that direction. We are laying down a broad, general policy, and in some instances we are being quite specific in this bill in providing preference for veterans in Government. The biggest problem in the postwar period is providing jobs for able-bodied American citizens who served in the Armed Forces. Jobs by which they can support themselves and their families; jobs which will permit them to retain their self-respect and feel that the country for which they have offered their all has not failed them.

"When this war is over and our boys come home they should not be forced to tramp the streets looking for jobs, nor to live on charity. There should be a job ready and waiting in private enterprise or with the Government, State, and local, for every American fighting man when he comes home when victory has been won."

See also Senate hearings on S. 1762 and H. R. 4115 (78th Cong., 2d sess. (1944) 8). And it was brought out with respect to provisions of the bill giving additional credit ratings to veterans upon all civil-service examinations that in certain situations such a measure would admittedly result in preferring a veteran of lesser skill or ability (as evidenced by an examination) over a nonveteran of greater skill or ability (90 Congressional Record 3504).

In the Senate hearings before the Committee on Civil Service on S. 1762 and H. R. 4115 (78th Cong., 2d sess. (1944) 32–35), the proposed legislation, embodying section 12 as quoted supra, was objected to on various grounds by the executive secretary of the National Civil Service League. Among the objections raised was the following:

"Retention in the service should be based, so far as practicable, on efficiency ratings and length of efficient service. The bill grants preferential status to all veterans, regardless of relative efficiency or length of service. A nonveteran of 25 years' service may have to be released to retain a veteran only 1 year in Government employ. This would destroy all hope of a career service based on merit and fitness and seriously affect the morale of the service as a whole."

At the same hearings, a union representative criticized the pending bill as supporting a systematic discrimination against nonveteran employees and their families and predicted that the legislation would "divide the working population into two major rival camps, the preferred citizen and the non-preferred citizen." He urged that "the idea of creating in the United States after this war a preferred class of citizens, is repugnant to our entire concept of government" (Senate hearings, op. cit., supra, 62, 63, 65). Similarly, the National League of Women Voters presented a statement which was read to the committee as follows (Senate hearings, op. cit., supra, 68):

"One of the principal concerns of the National League of Women Voters over a long period of years has been the establishment and maintenance of sound systems of personnel administration at each level of government. It has long been

our contention that the Government service should not be considered a haven for political workers or for veterans but on the contrary should attract the best-qualified persons. Government has become such an important factor in the lives of citizens that it must be administered efficiently and with favor to none.

"When there is a choice between two equally well-qualified persons, it seems reasonable that a person who has served in the Armed Forces should be given preference. We do not believe, however, that veterans should be given a monopoly of Government positions or that unqualified ones should have preference over well-qualified civilians. We, therefore, urge your committee to require all veterans receive a passing grade on examinations before preference points apply. This is especially necessary in the case of disabled veterans who receive a 10-point preference and are then jumped to the top of the eligible list."

No comment was made by any committee member on these criticisms, but the terms of section 12 in particular remained unchanged. It has been said that "the main purpose of the Veterans' Preference Act of 1944, was to fortify and broaden the preferences and rights of veteran preference eligibles rather than to restrict them (S. Rept. 907, 78th Cong., 2d sess., hearings on S. 1762 and H. R. 4115, supra, p. 8) and the statute should be construed so as to give effect to this purpose" ((1946) 40 Op. Atty. Gen. No. 113, p. 7).

The rules and regulations promulgated by the Civil Service Commission give effect to a complete preference of veterans over nonveterans at the various competitive levels of Government employment in any reductions in force. (See Civil Service Notes on Separation From the Service and Termination of Active Duty, Retention Preference Regulations for Use in Reductions in Force (September 27, 1945) secs. 1–16, pp. 185–192. The rules and regulations promulgated by the Civil Service Commission, to be effective February 15, 1953, or within any agency at such prior date as may be determined by the head of the agency, provide for three groups: Career, career-conditional, and indefinite, each of which is divided into subgroup A—persons entitled to veterans' preference and subgroup B—all others) (17 Federal Register 11733)).

The regulations which have been issued under the act have been the subject of several Federal court decisions. In the case of *Hilton* v. *Sullivan* ((1948) 334 U. S. 323), veterans with a classified status were held to have an absolute priority over nonveterans with a classified service notwithstanding the longer service of the latter. In the case of *Elder* v. *Brannan* ((1945) 341 U. S. 277) retention-preference was limited to a preference over nonveterans of a competing status, i. e., a veteran without competitive classified status is not preferred over a non-veteran with competitive classified status. In *Mitchell* v. *Cohen* ((1948) 333 U. S. 411) the benefits of the Veterans' Preference Act were limited to those persons who performed military service on full-time active-duty with military pay and allowances.

Federal district courts are not to assume jurisdiction in veterans' preference cases unless the jurisdictional amount of $3,000 exclusive of interest and cost is involved (*Wettre* v. *Hague*, 81 F. Supp. 590, affirmed 175 F. 2d 395, cert. denied 338 U. S. 870). Relief through injunction before exhaustion of administrative remedies was afforded in *Farrell* v. *Moomau* (85 F. Supp. 125), and *Wettre* v. *Hague* (168 F. 2d 825), but denied in *Akelmacker* v. *Kelly* (101 F. Supp. 528), *Johnson* v. *War Assets Administration* (171 F. 2d 556), and *Johnson* v. *Nelson* (180 F. 2d 386). The 30-day separation notice does not include the day on which the notice is given (*Stringer* v. *United States*, 90 F. Supp. 375) and is not required with respect to reductions in force (*Fass et al.* v. *Gray*, 197 F. 2d 587, cert. denied 344 U. S. 839). Veterans are entitled to a declaratory judgment with respect to their proposed dismissal (*Reeber* v. *Rossell*, 91 F. Supp. 108) but they are not entitled, except in United States District Court for the District of Columbia, to a mandatory order to restore them to posts from which they have been removed (*McCarthy* v. *Watt*, 89 F. Supp. 841; *Fredericks* v. *Rossell*, 95 F. Supp. 754; *Marshall* v. *Crotty et al.*, 185 F. 2d 622). Congress in establishing a preference for veterans over "competing employees," without defining the word "competing employees," must have intended that the Civil Service Commission determine in the first instance which nonpreference employees were competing. Further, regulations that veterans must qualify for positions to which they are reassigned, and that such positions must be within the local commuting area, are not in conflict with the act (*Leeds* v. *Rossell*, 101 F. Supp. 481. See also *Fass et al.* v. *Gray*, 197 F. 2d 587, cert. denied 344 U. S. 839).

Charges of misconduct against an employee were sufficiently specific under the Veterans' Preference Act where the allegations included creation of disrespect for the Public Printer and discontent among employees, removal of official papers,

and disorderly objections to work assignments. Adversary proceeding and compulsory attendance of witnesses for cross-examination purposes are not contemplated by the Civil Service Commission's regulations in appeal proceedings by discharged employees for the Commission does not have powers of subpena (*Deviny et al.* v. *Campbell*, 194 F. 2d 876).

Statutes providing that honorably discharged veterans, employed in the executive branch of the Government, may not be reduced to an inferior position, do not confer an unlimited and unconditional retention or preference right, in reduction in force cases, immune from any rulemaking power of the Civil Service Commission (*Fass et al.* v. *Gray*, *Candell et al.* v. *Gray*, 197 F. 2d 587, cert. denied 344 U. S. 839).

EXHIBIT 2

Federal Statutes Providing for Preference to Veterans in Federal Employment and Reductions in Force

R. S. 1754, 1755 (13 Stat. 571 No. 27).

Congress, in a resolution approved March 3, 1865, declared "that persons honorably discharged from the military or naval service by reason of disability resulting from wounds or sickness incurred in the line of duty, should be preferred for appointments to civil offices, provided they shall be found to possess the business capacity necessary for the proper discharge of the duties of such offices."

In this same resolution Congress likewise recommended that bankers, merchants, etc., give preference in appointments to honorably discharged veterans "in grateful recognition" of their services.

19 Stat. 169–3; August 15, 1876.

In an act providing for reduction in force in the executive departments, Congress provided that the heads of departments should "retain those persons who may be equally qualified who have been honorably discharged from the military or naval service of the United States, and the widows and orphans of deceased soldiers and sailors."

22 Stat. 406–7.

The Civil Service Act of January 16, 1883, excepted honorably discharged veterans entitled to preferences under R. S. 1754 (above) from the requirement of examinations before appointment and promotion in the civil service.

40 Stat. 1293–6.

The Soldiers and Sailors Act of 1912 contained a provision which stated that no honorably discharged soldier or sailor in Federal employment whose efficiency rating was good was to be separated or reduced in grade or salary during a reduction in force. It is interesting to note that this act also contained a penalty provision whereby the official of any agency who knowingly violated this provision could be imprisoned up to 1 year, or fined $1,000, or both. These provisions were absolute and, if strictly complied with, would not permit reassignment of any veteran employee unless it were at the same grade and salary level previously held by him. The wording of the Classification Act of 1923 refers to this 1912 provision. However, the Supreme Court in the *Elder* v. *Brannan* case pointed out that the Civil Service Commission had reduction in force regulations in effect as early as 1935 which only gave absolute preference to veterans within their respective tenure groups.

In the act of March 3, 1919, Congress provided that "in making appointments to clerical and other positions in the executive departments and in the dependent governmental establishments preference shall be given to honorably discharged soldiers, sailors, and marines, and widows of such, if they are qualified to hold such positions."

41 Stat. 37; July 11, 1919.

This 1919 act was amended in July of the same year by striking out the "independent governmental establishments," and extending preference to the wives of injured veterans who themselves are not qualified.

This provision, as amended, was repeated in the act of June 18, 1929 (46 Stat. 21–3).

42 Stat. 1490–8; March 4, 1933.

The Classification Act of 1923 specifically provides that nothing therein shall "modify or repeal any existing preference in appointment or reduction in the

service of honorably discharged soldiers, sailors, or marines, under any existing law or any Executive order now in force."

54 Stat. 1215–6; November 26, 1940.

Congress specifically provided that the Classification Extension Act is not to be construed so as to prevent the application of the existing veteran-preference provisions in civil-service laws, Executive orders, and rulings.

58 Stat. 387–391; June 27, 1944.

The Veterans' Preference Act of June 27, 1944, grants preference in employment and retention to honorably discharged ex-service men and women and the widows and wives of disabled veterans who themselves are not qualified to work in all Federal and District of Columbia positions, except those in the legislative or judicial branch of the Government or any appointment which requires confirmation by the Senate.

EXHIBIT 3

"Tenure" and "Status" Defined, With a Discussion as to the Legal and Administrative Basis of Each

(Excerpt from a letter addressed to the Subcommittee on Federal Manpower Policies from the Assistant Executive Director of the United States Civil Service Commission, Washington, D. C., dated October 1, 1952)

"TENURE"

The term "tenure" as used in Federal personnel regulations and instructions means the period which an employee may reasonably expect to serve in the agency in which employed, and is necessarily fixed by the type of appointment which he is actually given. In other words, the individual has tenure as a permanent employee, an indefinite employee, a temporary employee, etc. As you indicate, tenure is of greatest importance in the reduction-in-force process. For example, employees serving under appointments with no time limitation have permanent tenure of employment and are in the highest retention group for reduction-in-force purposes.

However, the tenure of employment of an employee (i. e., type of appointment) also controls other rights and benefits which he may enjoy. For example, employees in the competitive service serving under permanent appointments are entitled to the benefits of section 6 of the act of August 24, 1912, as amended by Public Law 623, 80th Congress (authorizing back pay after unjustified suspension or removal), whereas employees serving under less than permanent appointments generally do not come within the provisions of this law. Such employees may also be promoted, or transferred to other agencies and retain their tenure as permanent employees. It should be specifically noted, however, that the tenure of the employee at a particular time does not depend upon whether he has a competitive status or not, but rests solely on the type of appointment under which he is serving.

"STATUS"

The word "status" is frequently used in connection with Federal personnel administration to mean different things. For example, references are made to the status of positions (i.e., whether they are subject to the Civil Service Act and are in the competitive service, or excepted from competitive examination under a statute or Executive order); or to the fact that an individual has status as a permanent employee. It is assumed, however, that your question has reference to "competitive status" (formerly called "classified civil-service status," "classified (competitive) status," or simply "civil service status"), and the following explanation of the term is based on that assumption.

When the Civil Service Rules were generally revised by Executive Order No 9830 of February 24, 1947 (effective May 1, 1947) the terms "competitive service" and "competitive status" were specifically defined in section 1.1 of the order. The new terminology was adopted to avoid the confusion which had previously existed because the terms "classification" and "classified" had been used indiscriminately in two senses, both with regard to the status of employees and the status of positions. One had reference to the "classification" of positions or persons under the Civil Service Act and related solely to appointment procedures under the merit system; the other referred to "classification" of positions under the Classification Act of 1923, i.e., the process of classifying or allocating a position to its appropriate grade, class, etc., solely for salary fixing purposes.

As defined in section 1.1 of the order "A competitive status shall mean a status which permits a person to be promoted, transferred, reassigned, and reinstated to positions in the competitive service without competitive examination, subject to the conditions prescribed by the Civil Service Rules and Regulations for such noncompetitive actions. A competitive status shall be acquired by probational appointment through competitive examination, or may be granted by statute, Executive order, or the Civil Service Rules."

When we say that a person has a competitive status we mean that he has once received an appointment as the result of competitive examination (or has been excused from competing in an examination by acquiring status noncompetitively under a statute or Executive order), and for this reason may be noncompetitively considered for appointment to a position in the competitive service (i. e., a position required to be filled in accordance with the Civil Service Act). Of course, in addition to having once met competition (i. e., having a competitive status), the person being considered for a particular noncompetitive action must also meet the eligibility requirements prescribed by the Commission's regulations for the action in question. The eligibility requirements for a particular noncompetitive action, therefore, are separate and distinct from the question of having a competitive status. For example, the employee may have competitive status but not meet the requirements as to qualifications standards for a particular position, apportionment, residence, or some other eligibility requirement. When a person acquires a competitive status he retains that status indefinitely (whether he remains in Government service or not), with the sole exception that Congress has provided by statute that he shall lose his competitive status if he engages in a strike against the Government.

Although references are sometimes made to an employee as "having a competitive status" in a particular position, such statements are not quite accurate. His status (the right to be noncompetitively considered for appointment) is separate and distinct from the position he may occupy at a particular time, or the type of appointment under which he may be serving. For example, he may have a competitive status but be serving under an excepted appointment (permanent, temporary, or indefinite) in a position which has been excepted from the competitive service by law or Executive order.

Prior to World War II positions subject to the Civil Service Act were normally filled by probational appointment through selection from registers established as the result of open, competitive examinations, by temporary appointment pending establishment of registers, or by short-term temporary appointment. At that time, when a person acquired status, either through probational appointment or under a law or Executive order, it generally meant that he served under a permanent appointment. The same was true of status employees who had been noncompetitively selected for promotion, transfer, reassignment, or reinstatement. However, during the war period persons who had acquired status in previous periods of employment were given indefinite appointments when reemployed under the war service regulations. The same situation prevails during the present emergency since the Whitten amendment has required that all reinstatements subsequent to September 1, 1950 shall be on a temporary or indefinite basis. Consequently, although these employees have a competitive status they are required by law to be given indefinite appointments. When reinstatements are again authorized to be made on a permanent basis, employees having competitive status may have their indefinite appointments converted to permanent appointments.

To summarize, all that competitive status means is that an individual is entitled to be noncompetitively considered for appointment to competitive positions whether he is in or outside Government service, as distinguished from being required to compete in an open competitive examination and being regularly selected for appointment from the register in accordance with the so-called "rule-of-three."

HISTORY OF ESTABLISHMENT OF TENURE CATEGORIES

Tenure categories, so far as they relate to the reduction-in-force process, were developed through two sources both having the primary objective of giving effect to the provisions of law [1] granting retention preference to veterans prior to enact-

[1] *Act of August 15, 1876, 19 Stat. 169:* "That in making any reduction of force in any of the executive departments the head of such department shall retain those persons who may be equally qualified who have been honorably discharged from the military or naval service of the United States, and the widows and orphans of deceased soldiers and sailors."

Act of August 25, 1912, 37 Stat. 413: "That in the event of reductions being made in the force in any of the executive departments no honorably discharged soldier or sailor whose record in said department is rated good shall be discharged or dropped or reduced in rank or salary."

ment of the Veterans' Preference Act of June 27, 1944. These sources were the laws and Executive orders concerning efficiency ratings, and section 5 of former Civil Service Rule XII (particularly as promulgated by Executive orders of March 3, 1923 and March 2, 1929).

Classifying employees into groups according to the types or duration of the appointments under which they are serving, for the purpose of determining their relative rights to retention in the service, has been a part of the reduction-in-force process from the beginning of any organized method for reducing force in the Federal service. However, these groups have only comparatively recently been designated as "tenure categories."

Section 4 of the act of August 23, 1912 (37 Stat. 413) as amended by the act of February 28, 1915 (39 Stat. 15) directed the Bureau of Efficiency to prescribe a system of efficiency ratings for employees in the competitive service (then called the "classified service") in the District of Columbia. In order to insure uniform operation of the system the President issued Executive Order No. 3567, October 24, 1921, which provided among other things that—

"* * * In cases of reductions in the number of employees on account of insufficient funds or otherwise, necessary demotions and dismissals shall be made in order, beginning with the employees having the lowest ratings (efficiency ratings) in each class, but honorably discharged soldiers and sailors whose ratings are good shall be given preference in selecting employees for retention."

This provision of the order was amended by Executive Order No. 4240, June 4, 1925, which construed the Executive order of March 3, 1923 (sec. 5 of Civil Service Rule XII), to require that employees entitled to veteran preference should be placed at the top of the lists of competing employees, in the order of their efficiency ratings, provided they had a rating of not less than 80. It also directed the granting of additional points for length of service in determining the order of demotion or separation. In the meantime, responsibility for administration of efficiency rating systems was vested in the Personnel Classification Board by section 9 of the Classification Act of 1923 (subsequently transferred to the Commission by the Economy Act of June 30, 1932). Under the June 4, 1925, order the Board was required to approve proposed reduction in force demotions and separations, and to issue regulations to carry the order into effect. The Board issued reduction in force regulations by P. C. B. Circular No. 20, June 10, 1925, providing among other things, that "Temporary employees will be demoted or separated before any employee having a permanent status is demoted or separated * * *." These regulations did not apply to employees in the field service but were limited to those occupying positions subject to the Civil Service Act in the departmental service.

The Civil Service Rules applied to employees in the field service as well as in the departmental service. While the substance of the retention preference act of August 23, 1912 had been included in rule XII by the Executive order of March 3, 1923, the element of competing employees was introduced in the amendment of March 2, 1929, which provided that no employee entitled to preference should be separated or demoted "if his efficiency rating is equal to that of any employee in competition with him who is retained in the service." Except as provided for departmental positions by P. C. B. Circular No. 20, the determination as to who were competing employees was left to administration discretion until the Commission issued Departmental Circular No. 100, September 1, 1932, prescribing the order of dismissals because of reduction in force as follows:

1. Temporary employees;
2. Probational employees;
3. Permanent employees.

The categories of employees were increased to cover employees serving under other types of appointment by Departmental Circular No. 164, June 23, 1938, and supplements of May 26, 1939 and February 2, 1942. The Commission amended and codified all existing regulations and requirements of law with respect to reductions in force in Departmental Circular No. 372, September 4, 1942, and, for the first time, specifically used the term "categories of tenure" which would "constitute separate groups of competing employees, separations and demotions being made from the groups in the following order: (*a*) All temporary employees;", etc.

The Commission's jurisdiction with respect to reductions in force was subsequently enlarged by Executive Order No. 9063 of February 16, 1942, as amended by Executive Order No. 9378 of September 23, 1943; War Manpower Commission Directive No. X; and section 12 of the Veterans' Preference Act of 1944. The regulations issued under all of these authorities have grouped competing employees

into "tenure categories" for the purpose of determining relative rights to retention in the service. Section 12 of the Veterans' Preference Act lists "tenure of employment" as the first factor which shall be given "due effect" in the Commission's regulations governing reductions in force. This provision contemplated a continuation of the Commission's past practice of recognizing that employees should be grouped for retention purposes according to the duration of the appointments under which they are serving.

When reductions in the working force are required, whether in industry or Government, good personnel administration as well as equitable principles require the release of employees serving under limited contracts of employment or appointments before reaching permanent employees, or those who have been employed with the understanding that they have greater rights to employment than purely temporary employees but less than old-line permanent employees.

EXHIBIT 4

PART 20—RETENTION PREFERENCE REGULATIONS FOR USE IN REDUCTIONS IN FORCE

(As revised June 30, 1949; effective September 1, 1949, or at such prior date in any agency as may be determined by the head of the agency)

Sec.

AUTHORITY: Sections 20.1 to 20.15, inclusive, issued under secs. 11 and 19, 58 Stat. 390, 391; 5 U. S. C. 860, 868. Sections 20.1 to 20.15 apply sec. 12, 58 Stat. 390; 5 U. S. C. 861. Other statutory provisions applied are cited to text in parentheses.

SEC. 20.1 EXTENT OF PART. The regulations in this part establish degrees of retention preference and uniform rules for reductions in force. They apply to all civilian employees in the executive branch of the Federal Government, and in the municipal government of the District of Columbia, except those whose appointments are required to be approved by the Senate, and those who are appointed by the President of the United States. (Sec. 20, 58 Stat. 391; 5 U. S. C. 869.)

SEC. 20.2 DEFINITIONS. For the purpose of the regulations in this part definitions are given for words, terms and phrases as follows:

(a) "Reduction in force" means the involuntary separation of an employee from a duty and pay status for more than 30 days, by furlough or by separation from the rolls, in order to reduce personnel. Reduction in personnel may be due to lack of funds, personnel ceilings, reorganization, decrease of work, or for other reasons. The term does not apply to termination of temporary appointments, retirement of employees, or actions proposed for such reasons as will promote the efficiency of the service.

(b) "Retention credits" are credits given for length of Federal Government service ★and performance ratings of "Satisfactory" or better.[1]★

(c) "Federal Government service" means the total of all periods of civilian service in the executive, legislative and judicial branches of the Federal Government and in the District of Columbia Government, and of all active military service whether or not veteran preference is given therefor and whether or not it is creditable for civil service retirement purposes.

★(d) "Performance rating" means the current official performance rating under a performance rating plan which has been approved by the Civil Service Commission.[1]★

[1] As amended November 10, 1950, effective December 29, 1950.

(e) "Competitive area" means that part of an agency within a local commuting area, or combination of local commuting areas, within which employees are considered to be in competition, in their respective competitive levels.

(f) "Competitive level" means all positions within a competitive area in the same grade of the same service, trade, or profession (although they may have different titles or different pay rates), in which interchange of personnel is feasible.

SEC. 20.3 RETENTION PREFERENCE; CLASSIFICATION.[2] For the purpose of determining the relative rights to retention in the service in reductions in force, employees shall be classified in major groups ★PA, TA, X, Y, B, and C, according to tenure of employment, and by subgroups 1, 2, 3, and 4 on the basis of veteran preference and performance ratings as set out below.

The subgroups under each major tenure group are:

Subgroup 1. With veteran preference unless performance rating is less than "Satisfactory."

Subgroup 2. Without veteran preference unless performance rating is less than "Satisfactory."

Subgroup 3. With veteran preference where performance rating is less than "Satisfactory."

Subgroup 4. Without veteran preference where performance rating is less than "Satisfactory."

Group PA. All employees currently serving under absolute or probational appointments in positions held by the employee on a permanent basis, including preference eligibles in excepted positions under appointments without time limitation.

Special Subgroup PA–1 Plus. During one-year period after restoration, as required by law. (Section 8, 54 Stat. 890; section 9, 62 Stat. 614; 50 U. S. C. App. 308, 459.)

Group TA. All employees with permanent tenure serving under an indefinite promotion, demotion, or reassignment.

Group X. All employees with competitive status serving under indefinite appointments which were made after September 1, 1950, with no break in service of more than 30 days.

Group Y. Each employee eligible to acquire competitive status under authority of Executive Order 10080 or Executive Order 10157 until (1) it is determined that he will not be recommended by the agency for competitive status, (2) the time limit for recommending status is past, or (3) the recommended status is disapproved by the Commission.

Group B. All employees in positions in the competitive service without competitive status under appointments without time limitations; all employees in competitive or excepted positions serving under appointments with time limitations, except those specifically covered in groups TA, X, and C.

Group C. All employees in the competitive service serving under appointments with definite time limitations imposed in accordance with section 2.114 of this chapter, or in accordance with specific authority of the Commission; all employees in the excepted service with definite time limitations of one year or less.★

SEC. 20.4 COMPLETION OF EMPLOYEE RECORDS. (a) Agencies are responsible for maintaining current records of information necessary for determining relative retention preference of employees.

(b) If those records are incomplete, they shall be supplemented by written statements from employees, each supported by a signed certificate substantially as follows:

"I certify that the information submitted herewith is true, correct, and complete to the best of my knowledge and belief."

SEC. 20.5 DETERMINATION OF COMPETITIVE AREA. (a) An agency desiring to establish a general plan of competitive areas shall submit its proposal to the Central Office of the Commission for review and approval. Subsequent clearance with the Commission of areas conforming to an approved general plan will not be necessary unless the organizational structure of the agency or other facts upon the basis of which the existing general plan was approved, has changed materially.

(b) In the absence of an approved general plan the normal competitive area shall be a bureau or equivalent part of an agency in the departmental service, or all of a field installation, or any combination of these as may be determined by the agency.

[2] As amended October 14, 1949, effective September 30, 1949; October 30, 1950, effective August 28, 1950; and November 13, 1950, effective December 1, 1950, except as to provisions regarding performance ratings, which are effective December 29, 1950.

SEC. 20.6 SPECIAL REGULATIONS RELATING TO CONSOLIDATIONS AND MERGERS. (a) Before any reduction in force is made in connection with the transfer of any or all of the functions of ★an agency to another continuing agency, all preference eligibles and all employees serving with permanent tenure in positions identified with ★ such function shall be transferred to such continuing agency, without change in tenure of employment.[3]

(b) Employees whose positions are identified with functions transferred solely for the purpose of liquidation shall not be entitled to the reassignment benefits of section 20.9 in the receiving agency, unless identified with operating functions which are specifically authorized at the time of transfer to continue in operation for a period of more than sixty days.

SEC. 20.7 RETENTION REGISTER—(a) *Compilation.* A retention register shall be compiled for each competitive level affected by the reduction in personnel, from records brought up to a current basis. Such register shall include all employees whose official positions are in the competitive level excluding therefrom only those who are serving in the armed forces of the United States or in the merchant marine, with reemployment rights.

(b) *Separation of registers.* Separate competitive levels shall be established for employees in positions in the competitive service, employees in excepted positions, seasonal employees, employees serving on a when-actually-employed (WAE) basis, and part-time employees.

(c) *Employees serving under intra-agency indefinite personnel actions.* Whenever retention preference regulations are applied any permanent employee in a position to which he has been given an indefinite promotion, demotion, or reassignment shall be considered in competition with only those permanent employees who also have been given indefinite promotions, demotions, or reassignments, except that in being considered for separation or demotion from his permanent position or grade he shall be in competition with all competing permanent employees.[4]

(d) *Order of standing.* Retention registers shall be arranged in the order of tenure groups and by sequence according to retention credits within subgroups reflecting higher retention standing for those having a higher number of retention credits. Retention credits need not be computed or indicated on the register for employees in subgroups not affected by the reduction, in subgroups from which all employees are to be separated, or in retention group C.

(e) *Availability for inspection.* Retention registers reflecting the required order of standing shall be open for inspection by employees reached for action by reduction in force and by representatives of the Civil Service Commission.

SEC. 20.8 SEQUENCE OF SELECTION—(a) *Actions.* Within each competitive level action must be taken to eliminate all employees in lower subgroups before a higher subgroup is reached, and within each subgroup of retention groups PA, TA, X, Y, and B action must be taken concerning all employees with a lower number of retention credits before an employee with a higher number of retention credits is reached, except as provided in paragraph (c) of this section.[5]

(b) *Breaking ties.* Whenever two or more employees are tied as to total retention credits in retention group PA, TA, X, Y, or B the tie shall be broken first by considering half years of service in excess of total full years for which retention credits were granted. If a tie still exists it shall be broken by administrative decision, which may take into account such factors as official conduct, efficiency, number of dependents, length of service, or fitness for the job.[4]

(c) *Exceptions.* An exception to the regular order of selection may be made only when the employee to be retained is engaged on necessary duties which cannot be taken over, without undue interruption to the activity, by any employee with higher standing on the retention register who is reached for action. In all such cases, each employee affected adversely by the exception must be notified of the reasons, and of his right to appeal to the Civil Service Commission for a review of such reasons.[5]

SEC. 20.9 ACTIONS—(a) *In general.* Employees who cannot be retained in their positions because of a reduction in force shall be reassigned to continuing positions, furloughed, or separated. Furloughs shall not extend beyond the term of appointment and shall in no case exceed 1 year from the date of notice.

(b) *Reassignments to continuing positions in local commuting area.*[6] Reassignment is required in lieu of separation or furlough, within the local commuting area, without interruption to pay status whenever possible, to an available

[3] As amended November 13, 1950, effective December 1, 1950.
[4] As amended November 14, 1950, effective December 1, 1950.
[5] As amended September 20, 1949, effective September 21, 1949.
[6] As amended January 6, 1950, effective January 7, 1950, and amended August 3, 1950, effective August 4, 1950.

position for which the employee is qualified, unless a reasonable offer of reassignment is refused. No displacement will be required to permit the reassignment of an employee unless such employee is qualified to perform the duties of the position in question without undue interruption to the work program.★ Provided, however, that in reassignments to other positions, in a reduction in force, employees will not be given physical examinations unless the positions to which reassignment is contemplated are arduous duty positions or unless the duties of the positions are such that physical deficiencies might endanger human life or result in serious property damage. No employee whose reassignment is proposed to the class of position indicated shall be disqualified on physical grounds unless the proposed disqualification has the prior approval of the Central Office of the Commission, if the positions are in the departmental service in Washington or the appropriate regional director, if in the field service.★ Subject to these conditions, reassignment is required in each of the following cases:[7]

(1) *To a lower retention group or subgroup.* Any employee with competitive status in the competitive service in group PA or TA, if there is a position in the competitive service held by an employee in a lower retention group or subgroup; any employee in group X or Y in a position in the competitive service, if there is a position in the competitive service held by an employee in a lower retention group or subgroup; and any employee in subgroup B–1, in a position in the competitive service, if there is a competitive service position held by an employee in a lower retention group or subgroup.[2]

(2) *Within same subgroup.* Any employee with competitive status in the competitive service in subgroup PA–1 or PA–2, if there is a competitive service position, the same as the position from which he had been promoted on a permanent basis within the same competitive area (installation in the field service) held by an employee in the same subgroup with fewer retention credits.[8]

(c) *Reasonable offer of reassignment.* An offer of reassignment must be to a specific position which is expected to continue at least three months. Any offer of reassignment is reasonable if accepted by the employee as reasonable with knowledge of the facts. An offer of reassignment which is not acceptable to the employee will not be considered as reasonable if it [9] involves a reduction in rank or compensation when a reassignment under the foregoing provisions could be made without reduction in rank or compensation.[10]

SEC. 20.10 NOTICE TO EMPLOYEES—(a) *Proposed action.* Each employee who is to be separated from the rolls, reduced in rank or compensation, or furloughed in a reduction in force, shall be given a notice in writing, stating specifically the action proposed to be taken in his case and the reasons therefor, at least thirty days in advance of the effective date of the action.[11]

(b) *Status during notice period.* The employee shall be retained in an active duty status during the advance notice period whenever possible, but may be placed on annual leave, with or without his consent,[12] on leave without pay with his consent, or in an emergency when there is a lack of work or a lack of funds for all or part of the notice period, he may be placed in a nonpay furlough status. The reasons for any time without pay during the notice period will be reviewed upon the request of the employee if he appeals to the Commission.[13]

(c) *General and special notices.* When there is insufficient time to plan all reassignments and other adjustments thirty days in advance of the time action will be necessary, general notices may be given at least thirty days in advance of proposed actions, stating that action will probably be necessary, outlining the reasons for the probable actions, and informing the employees that they will receive specific notices in advance of the effective dates of the actions. In such cases the notice periods shall be determined on the basis of the dates the general notices were received by the employees, and the contents shall be determined on the basis of statements in both general and special notices.

(d) *Contents of notice.* Notices to employees shall set forth the nature and effective date of the proposed actions, the place where they may inspect copies

[7] As amended September 20, 1949, effective September 21, 1949; amended August 3, 1950, effective August 4, 1950; amended July 6, 1951, effective July 7, 1951, and amended October 12, 1951.

[2] As amended October 14, 1949, effective September 30, 1949; October 30, 1950, effective Au6ust 28, 1950; and November 13, 1950, effective December 1, 1950, except as to provisions regarding performance ratings, wich are effective December 29, 1950.

[8] As amended September 20, 1949, effective September 21, 1949; and amended November 14, 1950, effective December 1, 1950.

[9] As amended January 6, 1950, effective January 7, 1950.

[10] As amended September 20, 1949, effective September 21, 1949.

[11] As amended April 6, 1950, effective June 1, 1950.

[12] Decision No. B–83881 of the Comptroller General, United States (28 Comp. Gen. 526).

[13] As amended January 6, 1950, effective January 7, 1950; amended April 6, 1950, effective June 1, 1950; and amended December 20, 1950, effective December 21, 1950.

of the regulations in this part and the retention registers which have a bearing on the action in their cases, specific reasons for any exceptions, appeal rights within the agency and to the Civil Service Commission, and all available information to aid employees in securing other employment.

★SEC. 20.11 REAPPOINTMENT PRIORITY—(a) *Reappointment reserve list.* Each agency shall establish and maintain a reappointment reserve list for each competitive area where career employees in subgroups PA–1 and PA–2 are separated in reductions in force. Each employee in subgroup PA–1 or PA–2 with competitive status who has been separated from a position in the competitive service on the basis of a notice as provided in section 20.10 shall have his name entered on the reappointment reserve list for all positions in the competitive area for which he is qualified and available and continued on such list for a period of one year from the date of such notice, except that his name may be deleted from such list upon his signed written request, upon his acceptance of a position in any Federal agency, or if he declines reappointment to a position in the competitive service equivalent in grade and salary to the position from which separated.[14]

Any employee separated on or after September 30, 1949, who has acquired a competitive status under the authority of Executive Order 10080, shall be entitled, upon application to the agency from which separated, to have his name entered upon the appropriate reappointment reserve list for the remaining portion of the one-year period following the date of the notice under which he was separated. The same provision is applicable to any employee separated on or after August 28, 1950, who has acquired competitive status under the authority of Executive Order 10157.[15]

(b) *Restriction in filling positions.* No position in the competitive service, for which there is a qualified person available on the reappointment reserve list, may be filled by appointment of an employee of a different agency, or by the new appointment of any person except a qualified 10-point preference eligible Furthermore, no such position may be filled by the reappointment of a person who is not on the reappointment reserve list, unless such person is a preference eligible. These restrictions shall not apply if all qualified persons on the reappointment reserve list decline, or fail to respond to, offers of reappointment to the position. In selections for reappointment from such reserve lists, qualified preference eligibles shall have preference. Exceptions to these provisions may be made for reasons which promote the efficiency of the service: *Provided,* That each person who is not selected as a result of such exception shall be given a written statement of the reasons which promote the efficiency of the service, with an opportunity to answer and to have a written decision on the answer, and to appeal such decision to the Civil Service Commission.[1]

(c) *Appeals.* Any former employee entitled to reappointment priority under the foregoing provisions may appeal to the Civil Service Commission by presenting factual information that he was denied reappointment by the appointment of another person in violation of these provisions, or that the reasons for an adverse exception were not such as would promote the efficiency of the service.[14] ★

SEC. 20.12 SPECIAL REGULATIONS ON LIQUIDATION—(a) *Effecting separations.* Whenever it has been determined that all functions and all positions in the entire agency or an entire competitive area are to be abolished within a specified period of time, actions may be taken with regard to individual employees at different dates at administrative discretion. However, a preference eligible shall not be relieved from active duty before any competing employee in a lower retention subgroup is relieved from active duty, where their positions are immediately interchangeable.

(b) *Notices.* Employees reached for separation under this section shall be given individual notices in writing conforming generally to the notice requirements under Sec. 20.10. These notices, in addition, shall contain a statement of the law, Executive order, or other authority which requires the liquidation, and the time period in which the liquidation is to be accomplished, and shall inform the employees of their rights to appeal to the Commission if they feel that there has not been compliance with the provisions of the regulations in this part.

(c) *Competitive area.* Where it is necessary to liquidate a major activity which is not an entire competitive area, or which is a part of two or more competitive areas, the Commission will consider a request to establish such activity as a competitive area for the purpose of such liquidation.

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[1] As amended November 10, 1950, effective December 29, 1950.

[14] As amended November 13, 1950, effective December 1, 1950.

[15] As added October 14, 1949, effective September 30, 1949; and amended October 30, 1950, effective August 28, 1950; and amended November 13, 1950, effective December 1, 1950.

(d) *Restriction.* A mere limitation of authority to a specified date in the law which establishes, authorizes, or extends an agency is not a basis for the application of the special provision on liquidation.

SEC. 20.13 APPEALS. (a) Any employee notified of proposed action by reduction in force who believes that the regulations in this part have not been correctly applied may appeal to the appropriate office of the Civil Service Commission, stating reasons for believing the proposed action to be improper, within ten days from the date he received notice of the proposed action, or within ten days after a decision by the agency on his answer to any notice giving him an opportunity to answer.

(b) The Commission will not consider the correctness of a performance rating as a basis for appeal under the regulations in this part unless the appellant is a permanent or indefinite preference eligible, the rating appealed is less than ★"Satisfactory," there is no performance rating board of review established under section 7 of the Performance Rating Act of 1950, to which he can appeal, and diligent use has been made of administrative appeals procedures or justification is given for failure to use such procedures. Consideration of such appeals shall be limited to ascertaining whether the performance rating should be "less than 'Satisfactory' " or " 'Satisfactory' or better." (Sec. 14, 63 Stat. 1067; 5 U. S. C. Sup. III 863; 63 Stat. 970; 5 U. S. C. 1142; Public Law 873, 81st Cong.)[16]★

(c) Commission determinations of qualifications for specific positions, in the consideration of appeals under regulations in this part, shall be on the basis of all available facts concerning such qualifications.[17]

SEC. 20.14 FURTHER APPEALS TO THE COMMISSIONERS. (a) An appeal may be made by the employee or the employing agency from the initial decision within the Commission, to the Commissioners, United States Civil Service Commission, Washington 25, D. C., within seven days of the date of receipt of notification of the initial decision.

(b) Appeals under this section shall be referred to the Commission's Board of Appeals and Review for review of the record and for such further hearings as the Board may deem necessary.

(c) The appellant or his designated representative and the employing agency shall be notified of the decision on appeal to the Commissioners.

SEC. 20.15 FINALITY OF COMMISSION RECOMMENDATION. It shall be mandatory that agencies take corrective action without delay conforming to the Commission's recommendation. Such action may be stayed when a further appeal to the Commissioners is made in accordance with Sec. 20.14, until such time as the Commission's decision on the further appeal is made. (62 Stat. 575; 5 U. S. C. Sup. II 868.)

EXHIBIT 5

[H. R. 3700, 82d Cong., 1st sess.]

A BILL To amend the Veterans' Preference Act of 1944 and to preserve the equities of permanent classified and unclassified civil-service employees of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 12 of Public Law 359, Seventy-eighth Congress, approved June 27, 1944, is hereby amended to read as follows:

"SEC. 12. In a reduction in personnel in any civilian service of any Federal agency, competing employees shall be released in accordance with Civil Service Commission regulations which shall give effect to tenure of employment, military preference, length of service, and a performance rating of 'satisfactory' or better, in accordance with the following formula: *Provided,* (a) That each veteran with wartime service having an honorable discharge shall be credited with two retention points for every six months of wartime overseas service or fraction thereof; (b) that each veteran with wartime service, having an honorable discharge, shall be credited with one point for every six months of wartime service within the continental limits of the United States; or fraction thereof; (c) that each preference or nonpreference employee, without distinction, shall be credited with one point for each year of Federal civil service or fraction thereof: *Provided further,* That, notwithstanding the above, any preference employee who has suffered the loss or the loss of use of a limb or an eye or both as a result of service in the armed services of the United States during wartime, or who is receiving or entitled to

[16] As amended November 10, 1950, effective December 29, 1950.
[17] As amended September 20, 1949, effective September 21, 1949.

receive disability compensation for a disability or disabilities 60 per centum or more, shall be retained in preference to all other preference or nonpreference employees, regardless of length of service of such employees: *Provided further*, That, notwithstanding the above, any nonpreference employee who has suffered the loss or the loss of use of a limb or an eye or both as the result of an injury or disability incurred while in the performance of his official duties as a civil-service employee, or who is receiving or entitled to receive compensation from the United States Employees Compensation Commission for an injury or disability rated 60 per centum or more, shall be retained in preference to all other preference and nonpreference employees regardless of length of service of such employees, excepting, however, such preference employees who have suffered the loss or loss of use of a limb or an eye or both as the result of wartime service or receiving or entitled to receive disability compensation from the Veterans' Administration to the extent of 60 per centum or more: *And provided further*, That, when any or all of the functions of any agency are transferred to, or when any agency is replaced by some other agency or agencies, that preference and nonpreference employees alike, whose performance ratings are satisfactory or better, in the function or functions transferred or in the agency which is replaced by some other agency, shall be transferred to the replacing agency or agencies for employment in positions for which they are qualified, in accordance with the retention credits and priorities to disabled preference and nonpreference employees as hereinabove provided, before such agency or agencies shall appoint additional employees from any other source for such positions."

[S. 455, 82d Cong., 1st sess.]

A BILL To amend the Act of June 27, 1944, Public Law 359, and to preserve the equities of permanent classified civil-service employees of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 12 of Public Law 359 of the Seventy-eighth Congress, second session, approved June 27, 1944, be amended to read as follows:

"SEC. 12. In any reduction in personnel in any civilian service of any Federal agency, competing employees shall be released in accordance with Civil Service Commission regulations which shall give due effect to tenure of employment, military preference, length of service, and efficiency ratings: *Provided*, That the length of time spent in active service in the Armed Forces of the United States of each such employee shall be credited in computing length of total service: *Provided further*, That preference employees whose efficiency ratings are "good" or better shall be retained in preference to all other competing employees with less than ten years of total service and that preference employees whose efficiency ratings are below "good" shall be retained in preference to competing nonpreference employees with less than ten years of total service who have equal or lower efficiency ratings: *And provided further*, That when any or all of the functions of any agency are transferred to, or when any agency is replaced by, some other agency, or agencies, all preference employees in the function or functions transferred or in the agency which is replaced by some other agency shall first be transferred to the replacing agency, or agencies, for employment in positions for which they are qualified, before such agency, or agencies, shall appoint additional employees from any other source for such positions."

[H. R. 373, 82d Cong., 1st sess.]

A BILL To amend the Veterans' Preference Act of 1944, to provide additional preference, in retention, reemployment, and reinstatement, for veterans having a disability of 10 per centum or more

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 12 of the Act of June 27, 1944 (50 Stat. 390; 5 U. S. C. 861), be amended by adding a proviso to read as follows: "*And provided further*, That, notwithstanding the above, any preference employee who has a compensable service-connected disability and who has an efficiency rating of 'good' or better shall have added to their points for purposes of retention, reemployment, reinstatement, or transfer the following:

"If and while rated—
"(1) 10 per centum but less than 20 per centum, 1 point;
"(2) 20 per centum but less than 30 per centum, 2 points;
"(3) 30 per centum but less than 40 per centum, 3 points;
"(4) 40 per centum but less than 50 per centum, 4 points;
"(5) 50 per centum but less than 60 per centum, 5 points;
"(6) 60 per centum but less than 70 per centum, 6 points;
"(7) 70 per centum but less than 80 per centum, 7 points;
"(8) 80 per centum but less than 90 per centum, 8 points;
"(9) 90 per centum but less than 100 per centum, 9 points; and
"(10) 100 per centum, 10 points."

EXHIBIT 6

PROPOSED REVISION OF SECTION 12 OF THE VETERANS' PREFERENCE ACT AS APPROVED BY THE FEDERAL PERSONNEL COUNCIL ON JUNE 28, 1951

The Federal Personnel Council on June 28, 1951, approved a recommendation for amendment to section 12 of the Veterans' Preference Act of 1944. The separations committee of the Council, under the chairmanship of Rear Adm. Wesley McL. Hague, emphasized that particular effort was made to consider the complaints of both management and employees and to develop a proposal for revised statutory authority which would allow greater administrative flexibility in the reduction-in-force process. Section 12 was revised to read as follows:

"In any reduction in personnel in any civilian service of any Federal agency, competing employees shall be released in accordance with regulations prescribed by the Civil Service Commission. These regulations shall give effect to relative qualifications and suitability for the remaining work tenure of employment, and length of Federal civilian service and full-time active duty service in the armed forces of the United States; *Provided*, that the credit for preference derived under this Act from the military service of others and the minimum credit for military service of each preference employee under this Act shall be equivalent to that accorded for 10 years of civilian service; *Provided further*, that the head of a department or agency may make an exception to the retention order in the case of an employee who has a serious disability which is the result of an injury or illness incurred in the line of Federal civilian or military duty."

EXHIBIT 7

DETAILED ANALYSIS OF COSTS INCLUDED IN AN AGENCY'S REDUCTION IN FORCE

DEPARTMENT OF COMMERCE,
NATIONAL PRODUCTION AUTHORITY,
Washington 25, April 18, 1952.

Mr. MELVIN PURVIS,
Chief Counsel, Subcommittee on Federal Manpower Policies,
United States Senate, Washington 25, D. C.

DEAR MR. PURVIS: In our letter of March 13, 1952, we furnished answers to questions "a" through "s" which were requested in your letter of February 13. The answer to the last question, "t" (estimated costs of our reduction in force), was not included because we had not been able to assemble all of the pertinent data as of that time, as well as because your letter of February 25 provided additional guide lines as to the material desired. We now have completed the study of the estimated costs, and the answer to question "t" is furnished below. The answer consists of two parts: I. "Factors to be Considered in Determining the Reduction-in-Force Costs"; and II. "Estimated Cost of NPA's December, 1951, Reduction-in-Force."

I. Factors to be Considered in Determining the Reduction-in-Force Costs

1. The December 1951 reduction in force of the National Production Authority was required to achieve a reduction of approximately 213 positions out of a total staff of 4,713, because of a decrease in appropriations. Although only 49 persons

were officially separated by reduction in force between December 1, 1951, and February 22, 1952, a comparison of the agency's strength figures for the beginning and the end of the period shows that the desired reduction had been accomplished. While it is true that part of the other 164 positions required for reduction were vacated by normal attrition, there is no doubt that the reduction in force directly influenced the total reduction. Dividing the total estimated cost of the reduction in force by the number of persons officially reduced results in a cost of approximately $425 per person reduced in force. However, keeping the preceding comments in mind, it is felt that a more realistic figure of $97 per position vacated results if the total reduction in staff achieved is taken into account.

2. The reductions were required across all NPA operations—in all administrative units as well as in virtually all of the program units. All types of positions were involved—CPA's; grades GS–3 to 5 clerks, etc.; grades GS–7 to 12 administrative officers, placement officers, etc.; and GS–6 through 15 commodity industry analysts, industrial specialists, etc.

3. The competitive area was the entire National Production Authority as a primary organization unit within the Department of Commerce.

4. Under Department of Commerce policy, certain employees are entitled to consideration for reassignment within the departmental area (D. C.), including the other District of Columbia bureaus of the Department. However, in the conduct of the reduction in force, it did not become necessary to refer cases outside of the NPA competitive area. Had it been necessary to make referrals to the Department, the cost figures would have been higher.

5. The condition of the labor market in December 1951 was one of extreme scarcity in the stenographic and typist levels and for approximately 300 specialties in the commodity industry analyst and industrial specialist fields. There can be no question but that the requirement for a reduction in force in December 1951 more than doubled the difficulty of NPA recruitment for its remaining specialty needs. It is felt that the publicity which NPA's reduction received will influence, for some time to come, those with specialty experience and skills to seek employment elsewhere, whenever possible.

6. While it is too soon to estimate the costs involved in retraining employees who were moved within NPA as a result of the reduction in force, there is no doubt that many effective man-hours will be lost in the process.

II. Estimated cost of NPA's December 1951 reduction in force

[The period considered involved in this reduction in force was from Nov. 30, 1951, through Feb. 22, 1952]

	Pre-Dec. 1, 1951		Post-Dec. 1, 1952	
A. Estimated costs-in-setting up basic reduction in force information: [1]				
1. Original establishment of competitive levels and the placement of NPA positions in the levels	*Hours* 505	*Dollars* 1,740	*Hours* 50	*Dollars* 165
2. Gathering of length-of-service data from employees and computation of their lengths of service	4,800	6,815	120	215
3. Typing of the original register cards and their filing in register order	960	1,365	250	545
4. Setting up reduction-in-force policies, procedures, and plans of operation	92	340		
	6,357	10,260	420	925
			6,357	10,260
Total			6,777	11,185

[1] As a new agency, the NPA had not completed the establishment of its permanent records before the reduction in force was required. In mid-September 1951, in anticipation of the reduction in force, effort was intensified to assemble the data as quickly as possible. Since these basic records would have been set up anyway as a normal operation of the agency, the figures listed hereunder are not included as specific estimated costs relative to the particular reduction in force. The figures are furnished for whatever interest the subcommittee may have in knowing what it costs an agency with approximately 5,000 employees to set up its original reduction-in-force records. It is estimated that an additional cost of $2,500, 1,600 man-hours will be required in verifying length-of-service computations before our basic records will be in good shape.

	Continued cost of normal operations		Costs directly incident to the reduction in force	
B. Estimated costs of the actual mechanics of establishing and maintaining the retention registers:	*Hours*	*Dollars*	*Hours*	*Dollars*
1. Cost of typing the actual reduction-in-force registers			960	1,600
2. Cost of posting SF-50's to the register cards to keep them current during the reduction-in-force period	240	440		
1. Cost of reviewing personnel folders and changing register cards to correct retention categories in compliance with the new Whitten amendment	480	795		
4. Cost of reviewing job descriptions to determine whether particular positions were in correct competitive levels			90	305
Total	720	1,235	1,050	1,905
C. Consultation and planning for the specific reduction in force:				
1. Administrative costs in the Personnel Division in determining to whom notices should be issued			1,171	3,225
2. Operating costs of the involved units:				
(*a*) Determination by administrative officers and Bureau officials as to which positions should be abolished			1,061	3,865
(*b*) Cost of time spent in preparing SF-52's and memoranda to the Personnel Division. Time includes that of the dictators and the typists			1,044	2,300
Total			3,276	9,390
D. Cost of the paper process (notice issuing and reissuing, rescissions, extensions, etc.):				
1. Employment branch:				
(*a*) Cost of time spent by placement officers and stenographers in preparing and dictating memoranda, reduction-in-force notices, changes and rescissions, and in processing and approving SF-52's occasioned by the reduction in force			652	1,395
2. Processing and records branch:				
(*a*) Cost of time spent in reviewing SF-52's and cutting SF-50's resulting from the reduction in force			126	210
Total			778	1,605
E. Counseling (interviews with employees, reassignments within the competitive area):				
1. Time spent by Employment Branch technicians in explaining reduction-in-force regulations to employees; showing them their retention standings on the registers; contacting officials in NPA in effecting internal reassignments; settling of complaints			739	1,750
2. Time spent by operating bureaus in counseling with employees involved in the reduction in force and in discussing possible internal reassignments with Employment Branch technicians			1,560	4,685
Total			2,299	6,435
F. Reassignments and referrals outside NPA:				
1. Time spent by Employment Branch technicians in locating job opportunities in other agencies for persons affected by the reduction in force			231	600
2. Time spent by operating bureaus in discussing with placement officers the possible out-placement of persons affected by reduction in force			246	720
Total			477	1,320
G. Appeals (informal and formal):				
1. Time spent by Employment Branch personnel in conferring with the Civil Service Commission's representatives sent to review retention registers and discuss appeals received by the Commission			19	80
Grand totals directly incident to the reduction in force			7,899	20,735

We regret that it took this long to compile the above information. It was necessary to gather the data from many sources, allowing those concerned a reasonable time in which to consider the questions involved and for consolidating the figures for their particular areas. It should be pointed out that these figures are estimates, based on recollections of a series of incidents and projects which occurred as far back as September 1951.

Si ›ly yours,

BERNARD J. BEARY,
Acting Director, Personnel Division.

EXHIBIT 8

THE COST INVOLVED IN THE TURNOVER OF PERSONNEL [1]

Labor turnover.—One of the tests of the relative value of organized personnel policies and activities in a company is the rate of labor turnover, usually expressed in terms of the equivalent annual rate. There are three ways of calculating labor turnover percentages:

1. According to total separations, including quits, discharges, and layoffs.
2. According to replacements of workers who separate from the company.
3. According to separations exclusive of those which are unavoidable, such as deaths, long illnesses, marriage, removal of families from the community, military service, etc.

Using T—labor turnover in percent or per 100 employees
S—total separations regardless of cause
M—average number on the payroll
R—number of replacements hired
U—Unavoidable separations, as under (3) above

The rate of turnover in percent, or per 100 employees, is calculated according to the following formulas:

1. $T=\frac{S}{M}\times 100$ total less unavoidable separations.
2. $T=\frac{R}{M}\times 100$ on the basis of replacements of workers leaving.
3. $T=\frac{S-U}{M}\times 100$ total less unavoidable separations.

Turnover rate is calculated on a monthly basis. The factor M is taken as the average of the number of employees at the beginning and at the end of the month. "In compiling rates for an industry, the actual numbers for the several establishments are added and the general rates computed from the grand total. Thus, each establishment has an influence, or 'weight,' in the rate in production to its size" (Walters, Personnel Relations).

"In comparing monthly rates the number of days in the month should be considered, as no adjustment is made in the monthly rate because of the number of days. If an equivalent annual rate is desired, the monthly rate can be multiplied by 11.77 if the month has 31 days; by 12.17 if it is a 30-day month; by 13.04 if it is a 28-day month; and by 12.62 if it is a 29-day month. With the adjustment in the equivalent yearly rate this latter figure affords a more exact comparison as between months" (Mo. Lab. Rev., vol. 57).

Cost of labor turnover.—The important cost factors that enter into labor turnover are the following (Walters, Personnel Relations):

1. Cost of hiring:
   - Employment office expense.
   - Medical examination cost.
   - Advertising, prorated over number hired.
2. Cost of training:
   - Training department cost.
   - Foreman's or workman's time with new man.
3. Extra labor cost:
   - Day wages in excess of piece rate earnings.
   - High unit cost of production on time basis.
   - Extra men needed to make up for deficiency of new man.
   - Overtime caused by the deficiency of new man.

[1] Personnel Handbook, Ronald Press Co., New York, 1951, pp. 461–462.

4. Extra operating costs:
   - Additional power due to reduced rate of output.
   - Additional lubrication due to reduced rate of output.
   - Additional light due to reduced rate of output.
   - Additional heat due to reduced rate of output.
   - Additional service due to reduced rate of output.
   - Greater wear and tear on machinery.
   - Spoiled work beyond normal.
   - Increased accidents due to greater accident frequency during learning period.
5. Extra investment costs:
   - Interest, depreciation, insurance, taxes, and repairs on additional plant investment necessary on account of reduced output.
6. Loss of business:
   - Loss of goodwill and business through products and services by inexperienced employees.

The estimated cost of labor turnover for hourly rated employees of a boiler manufacturing company was approximately $96 per worker replaced.

EXHIBIT 9

THE IMPACT OF DELAYED APPROPRIATIONS ON REDUCTIONS IN FORCE AND OTHER PERSONNEL OPERATIONS

FEDERAL PERSONNEL COUNCIL,
UNITED STATES CIVIL SERVICE COMMISSION,
Washington 25, D. C., January 3, 1952.

Mr. ROBERT H. AMIDON,
Mr. C. AUBREY GASQUE,
Subcommittee on Federal Manpower Policies,
United States Senate, Washington, D. C.

DEAR MESSRS. AMIDON AND GASQUE: In the course of the conference on manpower policies the other day, you asked that I write out a comment I had made, that one of the greatest steps that could be taken to save manpower in the Federal Government would be to improve the appropriations system by which Federal agencies receive their funds. The last 2 years as you know the Congress has voted funds for the fiscal year after 2 months or more of the new fiscal year had already gone by. Naturally, agencies hesitate to complete their plans until the final passage of the measures which affect them. Further time is then required in the departments before the expansion or contraction of a program can take place.

Let us take the case of a program which was expanded 25 percent in 1950–51, and contracted an equivalent amount in 1951–52. Suppose the funds for 1950 were voted about September 1, and signed by the President 10 days later. Suppose then that only 3 weeks were required by the Bureau of the Budget and the department itself to make the necessary allotments to the bureau conducting the program. It would now be October 1. Then the original plans have to be amended in detail and broken down precisely into regions. Suppose this takes another 2 weeks. Suppose further that these final plans need the concurrence of the head of the department and his top staff—a process which in itself would consume another week or so. It will be close to November 1 when the field gets the go-ahead signal. The first step, however, will be to place, if possible, those reduced in force in other bureaus or regions. The second is to recruit actively for staff needed for the expanded program. It will be December at earliest before the personnel are on hand, and well into the year before they are trained and can be expected to hit their stride. The additional money for fiscal year 1950–51 is spent in 6 months rather than in 12.

Just as the program begins to get into high, new appropriations hearings cast a long shadow of doubt on the program. Some influential Members of the House think the program is not needed, but many, many months more must elapse before a decision is reached. Again it is late August before the bill gets out of conference, into September before it becomes law, and close to October before decisions are made in what parts of the program to apply the cuts. Naturally, a number of persons have already been notified that their services are no longer needed, even though it is October 1 before final decisions can be made as to exactly the persons to be retained. As a hedge against contingencies, more persons

have of course been notified that they are not needed than must in fact be laid off. The consequences in the morale of the rest of the staff are of course marked. It is November 1 at earliest before the various reassignments are completed. Eight months remain to conduct the program for the year.

It is quite possible that relatively little was accomplished with the increase of funds in 1950–51, since too much of the year had passed before the accomplishments began to roll in. The uncertainty, the feeling that Congress didn't think more of the program, the impact on morale, and the period of adjustment will almost certainly result in a level of efficiency less than that which operated before the additional funds were authorized.

Most Government programs are no less sensitive than our steel mills. When there is a steel strike, it is well known that you cannot shut down furnaces one day and start them up the next. A stop-and-start approach is costly in the Government, too, but that happens every fiscal year to agencies which are in serious doubt as to their level of appropriations. It is impossible to do a really constructive planning job under such circumstances.

From the angle of personnel operations, the program gyrates from active recruitment to training, to less activity, to reduction in force, to transfer and placement, and retraining. Moreover, those retained are disturbed by fear and uncertainty and quite a few of them are shuffled around and must learn new tasks. Worst of all, productivity is impaired by morale conditions. It is well understood in industry that morale is a major factor in productivity.

The solution to most of these problems is twofold. Congress may be able to speed up the appropriations process so as to get appropriations through early in June, or appropriations might be made for a period longer than 1 year. Secondly, a consciousness that human beings do a better job with appreciation and with constructive criticism than they do under violent attacks may breed a healthier morale situation. We note with great satisfaction the growing number of congressional leaders who speak out concerning the value of specific programs and the worthiness of Federal employees as a group. Such statements help maintain the foundation for effectiveness.

Mr. Gasque asked Glenn Stahl to write up a suggestion regarding reduction-in-force notice periods, which he asked that I transmit to you with this letter. His statement fits in, we believe, with the general comments I have made.

With best wishes for the New Year,

Sincerely yours,

(Mrs.) Mary Cushing Niles,
Assistant to the Chairman.

EXHIBIT 9 (a)

Fiscal Provisions To Cover Reduction in Force Notice Periods

(Attachment to Mrs. Niles' letter of January 3, 1952, in response to a request by the Subcommittee on Federal Manpower Policies, United States Senate—prepared by O. Glenn Stahl, Executive Vice Chairman, Federal Personnel Council)

So long as appropriations for a given fiscal year are not consummated until the end of the preceding fiscal year or later (as has been the case in recent years), a great deal of confusion and unnecessary work is occasioned whenever cuts in appropriations are threatened which would require reductions in personnnel. An agency so threatened by the action of the House Appropriations Committee feels compelled to begin issuing reduction-in-force notices so that as little as possible of the salary cost of persons to be dropped affects the coming fiscal year. Changes in these attempts to be forehanded are necessitated successively by the action of the Senate Appropriations Committee, the action of the conference committee, and the final action of each House of Congress. The result is going over of the reduction-in-force process at least several times without any assurance that any one approach is going to stick. Meanwhile, a great amount of executive time is lost in determining changes in programs to effect savings and determining competitive levels to be reduced, the competitive areas, the retention lists, and the rights to further placement of persons receiving notices. A lot of other rigmarole is involved, such as the possible use of provisional notices, blanket notices, taking special account of veterans, etc. Also, unnecessary bad effects on employee morale are occasioned by the constant turmoil that exists from May to September in those agencies which are harassed by threatened or actual appropriations cuts.

The following plan would appear to be more costly in direct costs but would undoubtedly be less costly by making for more efficient operation and by permitting the use of personnel staff and executive time more profitably on programs that would contribute to continual management improvement:

1. Employees would be given a 60-day rather than a 30-day notice as a general rule. For reductions in force occasioned by actual appropriations cuts, the normal notice should be given within 1 month after the appropriations are passed. In other words, if appropriations are made by June 1, notices would be sent out as of July 1, to be effective August 31.

2. It would be congressional policy to appropriate funds to carry employees during this notice period and for lump-sum payments whenever the general appropriation for a given agency is sufficiently reduced as to require a reduction in force.

3. Where necessary, the Appropriations Committee of the Congress would ask representatives of an agency anticipating a staff reduction to estimate and justify the cost for carrying the salaries and lump-sum leave payments of the number and classes of employees who would likely receive reduction-in-force notices. This estimate could be an approximation merely for the purpose of justifying the special appropriation to cover the notice period and lump-sum payments. Since such special appropriations would be confined to this purpose, it would make no difference whether the estimate turned out to be too high.

EXHIBIT 10

Layoff Practices in Industry: Letter From United States Steel Co

United States Steel Co.,
Pittsburgh 30, Pa., February 22, 1952.

Melvin Purvis,
Chief Counsel, Subcommittee on Federal Manpower Policies,
Committee on Post Office and Civil Service,
United States Senate, Washington, D. C.

Dear Mr. Purvis: Please refer to your letter of February 11, 1952, concerning reduction-in-force practices in this company. Your inquiry is answered as follows:

1. The term "seniority" in the labor agreements of the steel-producing divisions of this company, and in fact throughout the steel industry define "seniority" as including three factors, namely, ability, physical fitness, and continuous service. The seniority provisions are used in making determinations not only in the cases of promotions and demotions but also in reductions in force. The contracts specifically state that continuous service shall become the determining factor only when the abilities and physical fitness of the various vying parties are relatively equal. There are, of course, local practices concerning the computation of the length of continuous service. In most of our plants the practice in the cases of promotions and demotions provide for the use of continuous service only in a given seniority unit. Such a unit is oridinarily one connected with a particular operation, and rarely if ever is such a unit more extensive than one department. In practically all cases of layoff, continuous service is computed on the basis of total service within a given plant. In conclusion on this point, permit me to emphasize that in all cases of layoff, continuous service becomes significant only when ability and physical fitness of vying employees is relatively equal.

2. The actual mechanical layoff procedures of this company are simple. In all cases where a layoff is contemplated, the employees involved are given as much advance notice as is practicable. At the time of layoff the department prepares a layoff form and indicates by code number the circumstances of the layoff, secures the return of company property and indicates such return on the form, lifts any identification badges or passes, and informs the employee as how and when to collect his final wages.

3. The forms used in this procedure are very simple and the whole procedure involves very little cost. The cost normally discussed in industrial circles concerning layoffs are really costs traceable to fluctuating employment when employees laid off during force reductions fail to return to their former employers. These costs are really costs of hiring and training new employees as compared

with the costs of operating with the trained employees who did not return. Hence these costs represent a different problem from that created by a permanent force reduction. They are really costs of a fluctuating volume of business and are not really pertinent to procedural handling of force reductions.

Very truly yours,

E. E. MOORE,
Vice President, Industrial Relations Administration.

EXHIBIT 11

LETTER ADDRESSED TO VETERANS' AND FEDERAL EMPLOYEES' ORGANIZATIONS BY THE CHIEF COUNSEL, SUBCOMMITTEE ON FEDERAL MANPOWER POLICIES

MY DEAR MR. ———: The subcommittee has completed the major portion of its study into the present reduction-in-force rules and regulations and their impact on personnel utilization. However, before reaching any conclusions and making final recommendations, we would first like to have your views on this most important subject.

Specifically, we should like to know how you believe the system might be simplified, in order that the administrative costs might be materially decreased; what steps might be taken to eliminate a major portion of the confusion, unrest, and lowered morale which invariably accompanies the present force reductions, and seriously hampers operating efficiency; and, lastly, how we might revitalize merit and give it greater weight in determining retention in order that the better qualified employees will be the ones retained.

I might add that the subcommittee is fully cognizant of the legitimate rights of preference employees. Our desire is to improve the efficiency of the service by improving the career system.

These questions are by no means all inclusive, and any other ideas which you may have that will improve the present reduction-in-force rules will be greatly appreciated. I am contemplating holding some informal hearings on this subject shortly, and I should like to have you present your views personally, if you so desire.

With kindest regards, I am,

Sincerely yours,

MELVIN PURVIS,
Chief Counsel,
Subcommittee on Federal Manpower Policies.

EXHIBIT 12

AN EXCELLENT LETTER TO FHA PERSONNEL OFFICERS ANNOUNCING A REDUCTION IN FORCE, AND ILLUSTRATING A MATURE INSIGHT INTO THE IMPACT OF REDUCTIONS IN FORCE ON EMPLOYEE SECURITY AND MORALE

FEDERAL HOUSING ADMINISTRATION,
OFFICE OF DIRECTOR OF PERSONNEL,
Washington 25, D. C., July 27, 1951.

In accordance with the recent letter you received from your zone commissioner we are sending to you with this letter, an official retention register of the personnel of your office which is to be used in reducing staff.

We deeply regret this action and we are fully aware of the problems, difficulties, and unpleasantness of the task that lies before you in reducing your proud and efficient staff by separating good, loyal, and industrious people. Therefore, to assist you in dealing with these problems and difficulties, we have prepared an informational pamphlet which you will find enclosed in ditto form. I realize full well the personal displeasure and distastefulness of your task. I am not unmindful of the just and friendly claims that will be made on you by the people to be separated nor am I unaware of the effect of this action on the morale of your staff. To offer you some assistance in this regard is the unequal burden which I have undertaken in this letter.

When we prepare the individual notices to the employees concerning their separation, we will contact each of the regional directors of the Civil Service Commission and request them to give you every possible assistance in promptly

placing the people separated from your office. At that time I would suggest that you supply the regional offices of the Commission with a list of the people to be separated, and that you make available to them full information on their qualifications. It would be advisable for the employees to prepare new and up-to-date applications (S. F 57). I would also suggest that you contact the local office of the United States Employment Service and provide them with similar information. We understand that in most areas they have many job opportunities and have been most efficient in effecting speedy assignments. It would probably be very effective for you to assign to one person the responsibility of maintaining a close liaison with the Civil Service Commission, the United States Employment Service, other Government agencies and related business organizations in your area.

To set at rest the many uncertainties and fears that are aroused by the cumbersome reduction-in-force procedures and those inevitable rumors that attend such an action, may I suggest from the experience we have had, that you give all employees as soon as possible an explanation of the need of this reduction in force, its extent, and the assurance that every effort will be made to promptly place those affected. I would also suggest that you further explain to the permanent people who are to be separated, the advantage to them of a transfer to a defense agency as against the reduction-in-force action. A transfer to a defense agency assures them of reemployment rights back to the FHA, whereas the reduction-in-force action merely places them on a reappointment reserve list. This also has the advantage to us of transferring the employee's leave.

Needless to say, our reduction in force will be made in accordance with the rules and regulations of the Civil Service Commission which are designed to insure the greatest possible equity in effecting the separation of employees from Federal service. These regulations are, in short, intended to give recognition both to length of service and efficiency, as well as to the legal requirements of veterans' preference. However, as we all know, the best laws, rules, and regulations are unable to prevent injustices in individual cases. We have in the reduction-in-force regulations a serious example of the frailty and fallibility of such precepts. I refer to employees in retention group X and certain employees in group B. Such employees, even though they may be working for the FHA at the same or a lower grade than their former positions and regardless of their length of service, efficiency or veterans' preference, are virtually shorn of the significant rights of civil-service status when it comes to a reduction in force. The amended civil-service rules and regulations of which you were advised in Personnel Letter 1–298 dated January 12, 1951, prohibits the appointment of present or former Federal employees on a transfer or reinstatement basis. The law on which these regulations was based had the laudable aim of avoiding the job jumping and upgrading of positions that was so prevalent during the last war as a result of the establishment of many wartime agencies, and which can very well occur again in the present emergency.

The effect of these regulations is that an employee may transfer from a nondefense to a defense agency where his appointment will be indefinite, but with reemployment rights back to his former employer. However, there is no reemployment rights for the employee who transfers from a defense agency to a nondefense agency, nor for the employee who transfers from one nondefense agency to another nondefense agency, although their appointments are also indefinite. Such employees are now placed in retention group X and have no "retreat" rights and virtually have no rights to "bump." Similarly, employees of the Federal service who have had a break in service of more than 30 days, are given indefinite appointments and are placed on retention registers in group B. They, too, are deprived of the significant rights of civil-service status of which their years of service entitles them. It would appear that such action is a breach of faith on the part of their Government. I, therefore, recommend to you that you examine your register carefully for those employees who are in these two retention groups, and that they be shown special consideration in planning and carrying out this reduction in force.

It is because of the good work of our employees and their devotion to duty that the FHA enjoys such an enviable reputation. It is, therefore, your obligation as it is also mine and each supervisor's, to give our most serious and thoughtful personal attention to planning and carrying out this reduction in force, and to give each person who is separated our sincere, intelligent consideration and help in securing prompt and satisfactory employment.

I wish to assure you that each one of us in the Personnel Division is most anxious to be of every assistance to you, and we will make every effort to answer any

questions and to help you with any particular problem which is referred to us. Our field personnel officers will be in close personal touch with the Commission and with all other possible employment sources, in order to do everything possible in expediting prompt reemployment for those people whom you must separate.

Very truly yours,

GEORGE A. BAUMANN,
Director of Personnel.

EXHIBIT 13

LETTERS ILLUSTRATIVE OF THE FINE DEGREE OF COOPERATION BETWEEN THE FEDERAL HOUSING ADMINISTRATION AND THE CIVIL SERVICE COMMISSION IN THE PLACEMENT OF EMPLOYEES SEPARATED BY REDUCTION IN FORCE

FEDERAL HOUSING ADMINISTRATION,
OFFICE OF DIRECTOR OF PERSONNEL,
Washington 25, D. C., August 1, 1951.

In line with our memorandum to you of July 27, we have made arrangements through the Civil Service Commission headquarters for special assistance to be given by its regional offices in the transfer or other placement of FHA employees to be made available by reduction in force. Attached is a copy of the instructions that the Commission has just sent to its regional directors on this subject.

As you will see, these instructions call for action considerably beyond that normally provided. We hope that you will take the initiative in seeking the assistance available, so that FHA employees will get the best break possible out of this regrettable reduction in force. We would especially call your attention to the fact that by arranging any possible transfers to defense agencies before the issuance date of reduction-in-force notices the employees affected may be granted reemployment rights in FHA.

The special measures to be taken in our behalf are regarded by the Commission as a pilot test, with the hope that it may help set the pattern for improved interagency placement procedures generally. For this reason, may I urge that you keep in close touch with the actions taken and let us have your critical opinion of the results achieved, together with your suggestions for any improvements that occur to you in this regard.

Our own field personnel officers, as you know, must serve exceedingly large territories—each covering several civil-service regions. Consequently, their efforts must be spread pretty thin at times like the present. They are there, however, to serve you to the limit of their time and energies; and, as I mentioned in my memorandum last week, they will be following through with the Commission's regional offices, as well as other sources of employment assistance. Call on them, or us, for any help we can give in dealing with any special problems that arise.

GEORGE A. BAUMANN,
Director of Personnel.

UNITED STATES CIVIL SERVICE COMMISSION,
Washington 25, D. C., July 30, 1951.

To: All regional directors.
Subject: Reduction in force in the Federal Housing Administration.

The Federal Housing Administration will have a further cut in staff in its field offices of about 17 percent or approximately 700 employees. Notices will probably be issued in about 2 weeks.

At this time, however, district and State directors of the FHA have a fair idea as to which employees will be separated. In general, the reduction will affect clerks, construction inspectors, construction examiners (some of whom will also be qualified as architects or engineers), appraisers, mortgage credit examiners, and a few land planners (site planners, street and drainage engineers, etc.). Most employees will have competitive status.

The FHA and the Commission will make every effort to arrange transfers to defense agencies for as many of the affected employees as possible prior to actual issuance of the notices. Employees placed before notices are issued are eligible for reemployment rights, and the FHA is completely willing to grant such rights.

The Veterans' Administration is currently recruiting for construction superintendents and engineers. This recruiting (for the Construction Service) is centralized in Washington and the central office has brought the two agencies together.

You are requested to do everything possible to bring together expanding defense agencies and the FHA in your region, using all the suggested methods in Commission Letter 50–155—special placement committees of field councils, special informal placement committees, and periodic vacancy information to FHA—and any other methods you can devise. We suggest also that the support and assistance of your Federal personnel councils be solicited.

Our longstanding practice of giving displaced career employees priority on registers and of circulating lists of displaced career employees to defense agencies will be continued, but we believe additional emphasis on informal positive placement efforts prior to issuance of reduction-in-force notices will give better results and reduce the formal filing of applications by displaced career employees.

Based on our experience, we would also like to suggest that insofar as possible employees who are not placed before formal filing be interviewed. We have found that an interview often will bring to light abilities not shown in a form 57 and often results in new ideas as to placement possibilities.

There is attached a list of the FHA field offices and the reduction in positions in each.

FHA is sending a letter to its State and district directors which includes instructions to seek your assistance and that of the Employment Service.

L. A. MOYER, *Executive Director.*

EXHIBIT 14

NOVEMBER 12, 1952.

REVISION OF PART 20—RETENTION PREFERENCE REGULATIONS FOR USE IN REDUCTIONS IN FORCE

Sec.

AUTHORITY: Sections 20.1 to 20.9, inclusive, issued under secs. 11 and 19, 58 Stat. 390; 5 U. S. C. 860, 868. Sections 20.1 to 20.9 apply sec. 12, 58 Stat. 390; 5 U. S. C. 861. Other statutory provisions are cited to text in parentheses.

SEC. 20.1 EXTENT OF PART. The regulations in this part establish degrees of retention preference and uniform rules for reductions in force. They apply to all civilian employees in the executive branch of the Federal Government, and in the municipal government of the District of Columbia, except those whose appointments are required to be approved by the Senate, and those who are appointed by the President of the United States. (Sec. 20, 58 Stat. 391; 5 U. S. C. 869)

SEC. 20.2 DEFINITIONS. For the purposes of the regulations in this part definitions are given for words, terms and phrases as follows:

(a) "Reduction in Force" means the involuntary separation of an employee from a duty and pay status for more than 30 days, by furlough or by separation from the rolls, in order to reduce personnel. The term does not apply to termination of temporary appointments, for retirement of employees, or separations for cause and other actions proposed for reasons which promote the efficiency of the service.

(b) "Furlough" in a reduction in force means retention on the rolls on leave without pay pending recall to duty.

(c) "Competing employees" for any position in a reduction in force means the position incumbent, if any, and employees who are qualified for the position.

(d) "Qualified" for a position means having the basic education and experience, and such special skills and aptitudes as are necessary, to take over the position in a reduction in force and render satisfactory service without undue interruption to the work program.

(e) "Competitive area" means that part of an agency, usually within a local commuting area, in which employees are shifted, transferred, reassigned, promoted and demoted under single administrative authority, and within which competitive levels are established in reductions in force. (It does not establish a limitation for placement during reductions in force.)

(f) "Competitive level" means all similar positions within a competitive area in which employees could be readily interchanged, without undue interruption to

the work program. (Generally such positions will be in the same grade or occupational level, but this is not necessary if the other tests are met.)

(g) "Retention standing" means precise rank among competing employees for a continuing position, by retention group and subgroup, and by retention credits within each subgroup.

(h) "Retention credits" are credits given for length of government service and performance ratings.

(i) "Government service" means the total of all periods of civilian service in the executive, legislative and judicial branches of the Federal Government and in the District of Columbia Government, and of all active military service.

(j) "Performance rating" means the current official performance rating under a performance rating plan which has been approved by the Civil Service Commission.

(k) "Continuing position" in a reduction in force is a position which is expected to continue for at least three months after the effective date of the separation, furlough, or reduction in grade or salary of an employee qualified for such position.

(l) "Effective date" is the date an employee is separated, reduced in grade or pay, or furloughed, as the result of actions under these regulations.

SEC. 20.3 COMPLETION OF EMPLOYEE RECORDS. (a) Each agency is responsible for maintaining current records of information necessary to determining relative retention preference of employees.

(b) If such records are incomplete, they may be supplemented by written statements from employees, each supported by a signed certificate that the information it contains is true, correct and complete according to the employee's knowledge and belief—

SEC. 20.4 ORDER OF SELECTION. (a) *Determination of competitive area.* (1) An agency may establish a general plan of competitive areas by obtaining prior approval from the Central Office of the Civil Service Commission. Subsequent clearance with the Commission will not be required concerning competitive areas conforming to the approved general plan unless there has been a material change in the agency's organizational structure or other facts on which the general plan was approved.

(2) In the absence of an approved general plan the normal competitive area shall be a bureau of equivalent part of an agency in the departmental service, or all of a field installation in a local commuting area, or any combination of these as may be determined by the agency.

(b) *Determination of competitive level.* Within the competitive area the agency will determine competitive levels of positions to be affected by a reduction in force.

(c) *Determination of tenure groups.* For the purpose of determining relative retention preference in reductions in force, competing employees with performance ratings of "Satisfactory" or better shall be classified according to tenure of employment and veteran preference in groups and subgroups as follows:

(1) Group I—Career. In the competitive service, this group consists of career employees who have completed probation and who are not "temporary" or "indefinite" as the result of promotion, transfer or reinstatement, except that career employees serving under conditional promotions shall be considered in this group with respect to positions at and below the grade in which they last served on a permanent basis. In positions excepted from the competitive service, this group includes all employees serving under appointments with no conditions or restrictions. Within this group, persons entitled to veteran preference are in subgroup "A" and others in subgroup "B".

(2) Group II—Career-Conditional. In the competitive service, this group includes career employees who are conditional because they are serving probationary periods, or are "temporary" or "indefinite" as the result of promotion, transfer or reinstatement, or are subject to some other limitation of a similar nature. In positions excepted from the competitive service, it includes employees who are conditional solely as the result of promotion or reinstatement. Within this group, persons entitled to veteran preference are in subgroup "A" and others in subgroup "B".

(3) Group III—Indefinite. This group includes persons serving under non-status non-temporary appointments in positions in the competitive service. It also includes employees in positions excepted from the competitive service serving under any condition or limitation other than a conditional promotion or reinstatement or a specific time limitation of one year or less. Within this group, persons entitled to veteran preference are in subgroup "A" and others in subgroup "B".

(d) *Retention register.* (1) Compilation. When two or more competing employees are in a competitive level which is to be affected by a reduction in force, the retention records of such employees shall be brought up to date on a current basis, and a retention register shall be compiled. All employees in positions in the particular competitive level, whether in duty, leave, or furlough status, excluding only those absent in the armed forces of the United States with reemployment rights, shall be entered on the register in the order of retention groups and subgroups, and according to retention credits in any subgroup when there are two or more. One retention credit shall be given for each full year of Federal Government service, and four retention credits shall be given for an "Outstanding" performance rating. If there are any temporary employees assigned to positions in the competitive level, their names and the expiration dates of their appointments shall be entered below the space provided for employees in retention groups on the register. Likewise, if there are any employees serving in positions in the competitive level under any kind of appointments, with current official performance ratings of "Unsatisfactory", their names shall be entered on the register below the names of temporary appointees.

(2) Separation of registers. Separate registers shall be compiled to show the distinctions between competitive levels representing positions in the competitive service; excepted from the competitive service; and those filled on a seasonal, when-actually-employed (WAE), or part-time basis.

(3) Availability for inspection. Employees notified of proposed adverse action in a reduction in force shall have an opportunity to examine retention registers and other records which have a bearing on the actions in their cases. All registers and records shall be open for inspection by representatives of the Civil Service Commission.

(c) *Sequence of selection.* With respect to each competitive level, action must be taken to remove all employees with official "Unsatisfactory" performance ratings, and all temporary employees, from positions affected by a reduction in force before any competing employee, in any retention group, is reached for action. Thereafter, selections for action must be made in order from the bottom to the top of the register. Half years of service will be used in breaking ties in retention standing, but any ties still remaining will be decided administratively.

SEC. 20.5 ACTIONS. (a) *In general.* Employees who cannot be retained in their positions because of a reduction in force will be changed to continuing positions, separated, or furloughed.

(b) *Employees in positions in the competitive service.* (1) No employee may be separated, or furloughed for more than thirty days, or reduced in pay or grade in a reduction in force while a competing employee with lower retention standing is retained in the same competitive level.

(2) No employee in any subgroup of the career group or the career-conditional group who is willing to accept a reasonable change in position may be separated, furloughed for more than thirty days, or subjected to greater reduction in pay than necessary under such reasonable change in position, if he is qualified for a continuing position in another competitive level in his current commuting area in which an employee with lower subgroup standing is retained, or if he is qualified to go back to a continuing position from which he was promoted (or to an essentially identical position) in his present competitive area in which an employee with lower retention standing is retained.

(c) *Employees in positions excepted from the competitive service.* No employee in a position excepted from the competitive service may be separated, furloughed for more than thirty days, or reduced in grade or pay in a reduction in force if a competing employee with lower retention standing is retained in the same competitive level.

(d) *Reasonable change in position.* Any change in position under these regulations is reasonable if it is made without reduction in grade or pay. If a reduction in grade or pay cannot be avoided, any such change is reasonable if made with the least reduction required to conform with these regulations. Employees are not required to be given options as to alternative changes possible in any particular case. No agency shall be required to fill a vacant position, or to promote any employee, or to transfer any employee to a different duty station, and no agency shall be prohibited from taking such administrative actions. No employee rendering satisfactory service in a position shall be required to be displaced by a competing employee who is not qualified for such position under these regulations.

(e) *Furloughs.* Furloughs shall be given only when the reduction is temporary and contemplates the recall of employees to the positions from which furloughed. They may not extend more than one year from the date of notice, and shall pro-

vide that the employees report back for duty at the end of the furlough period if not recalled earlier.

(f) *Exceptions.* An exception to the regular order of selection or to the above provisions governing actions in a reduction in force may be made only when necessary to retain an employee engaged on necessary duties which cannot be taken over without undue interruption to the activity, by an employee with higher retention standing. In such cases, each employee affected adversely by the exception must be notified of the reasons and of his right to appeal to the Civil Service Commission for a review of such reasons.

SEC. 20.6 NOTICE TO EMPLOYEES. (a) *Proposed action.* Each employee who is to be separated from the rolls, furloughed for more than thirty days, or reduced in grade or pay, in a reduction in force, under these regulations, shall be given a notice in writing, stating specifically the action proposed in his case and the reasons therefor, at least thrity days, and not more than ninety days, except as provided in (e) below, in advance of the effective date of the action.

(b) *Status during notice period.* Wherever possible, the employee shall be retained on active duty during the notice period, but may be placed on annual leave with or without his consent, on leave without pay with his consent, or in an emergency when there is a lack of work or a lack of funds for all or part of the notice period, he may be placed in a non-pay leave status. The reasons for any time without pay during the notice period will be reviewed upon the request of the employee if he appeals to the Commission.

(c) *General and special notices.* When there is insufficient time to plan all changes in positions and other adjustments thirty days in advance of a reduction in force, general notices may be given at least thirty days in advance of the proposed actions, stating that action will probably be necessary, outlining the reasons for the probable actions, and informing the employees that they will receive specific notices in advance of the effective dates of the actions. In such cases the notice periods will begin on the dates the general notices were received by the employees, and the sufficiency of the contents will be determined on the basis of statements in both general and specific notices.

(d) *Contents of notice.* Notices to employees shall set forth the nature and effective date of the proposed actions, the place where they may inspect copies of the regulations in this part and the retention records which have a bearing on the action in their cases, specific reasons for any exceptions, appeal rights within the agency and to the Civil Service Commission, and all available information to aid the employee in securing other employment.

(e) *Employees with statutory retention rights.* Notices to employees in positions in which they have one-year statutory retention rights as the result of restoration after service with the armed forces, shall show effective dates on or after the expiration of such rights.

(f) *Invalidation of notices.* A general notice or other indefinite notice that is not followed by a definite notice, or renewed as an indefinite notice, within thirty days, is thereafter invalid as a notice of proposed action in a reduction in force. Any notice becomes invalid if it is not followed by action according to its terms, or as amended before action is due.

SEC. 20.7 REEMPLOYMENT PRIORITY. (a) Reemployment priority list. Each agency shall establish and maintain a reemployment priority list for each competitive area from which career employees (and career-conditional employees, who have completed probation) have been separated in reductions in force, from competitive service positions on the basis of notices as provided in section 20.6. Each of these employees shall have his name entered on the reemployment priority list for all competitive service positions in the competitive area for which he is qualified and is available, and continued on such list for a period of one year from the date of such notice. His name may be deleted from such list upon his signed written request, upon his acceptance of a non-temporary position in any Federal agency, or if he declines reemployment to a position in the competitive service equivalent in grade and salary to the position from which separated by reduction in force.

(b) Restriction in filling positions. No position in the competitive service, for which there is a qualified person available on the reemployment priority list, may be filled by the transfer of an employee of a different agency, or by the new appointment of any person except a qualified 10-point preference eligible. Furthermore, no such position may be filled by the reemployment of a person who is not on the reemployment priority list, unless such person is a preference eligible. These restrictions shall not apply if all qualified persons on the reemployment priority list decline, or fail to respond to, offers of reemployment to the position.

In selections for reemployment from such priority lists, qualified preference eligibles shall have preference. An exception to these provisions may be made only when necessary to obtain an employee for necessary duties which cannot be taken over without undue interruption to the activity, by any person on the reemployment priority list, or with greater preference on such list. In such cases, each person adversely affected by the exception must be notified of the reasons, and of his right to appeal to the Civil Service Commission for a review of such reasons.

(c) Reemployments. Any person listed, or entitled to be listed, on a reemployment priority list may be reemployed in the competitive service under this regulation within his period of reemployment priority, and when so reemployed shall have the same tenure as if he had been transferred from his last career appointment.

(d) Appeals. Any former employee who feels that there has been a violation of his reemployment priority benefits under the foregoing provisions may appeal to the Civil Service Commission by presenting factual information that he was improperly denied reemployment as the result of the employment of another person.

SEC. 20.8 SPECIAL REGULATIONS RELATING TO CONSOLIDATION AND LIQUIDATIONS. (a) Before any reduction in force is made in connection with the transfer of any or all of the functions of an agency to another continuing agency, all competing employees in positions identified with such function or functions shall be transferred to such continuing agency, without change in tenure of appointment. Employees whose positions are transferred solely for the purpose of liquidation, and not identified with operating functions specifically authorized at the time of transfer to continue in operation more than sixty days, shall not be considered as competing employees for other positions in the receiving agency.

(b) Whenever it has been determined that all positions in the entire agency or an entire competitive area are to be abolished within a period of three months or less, actions may be taken with regard to individual employees in any retention sub-group at administrative discretion. Employees reached for separation under this sub-section shall be given individual notices in writing conforming generally to the notice requirements under section 20.6 but containing a statement of the authority which requires the liquidation, and the time period in which the liquidation is to be accomplished.

SEC. 20.9 APPEALS. (a) Any employee notified of proposed action in a reduction in force who believes that the regulations in this part have not been correctly applied may appeal to the appropriate office of the Civil Service Commission, stating reasons for believing the proposed action to be improper, within ten days from the date he received notice of the proposed action (or supplementary notice specifying different adverse action), or within ten days after a decision by the agency on his answer to any notice giving him an opportunity to answer.

(b) *Further appeals.* An appeal may be made by the employee or the employing agency from the initial decision within the Commission, to the Commissioners, United States Civil Service Commission, Washington 25, D. C., within seven days of the date of receipt of notification of the initial decision.

(c) *Finality of Commission recommendation.* The agency is required to take corrective action without delay conforming to the Commission's recommendation, but action to comply with an initial decision may be stayed when a further appeal to the Commissioners is made in accordance with sub-section (b), until such time as the Commission's decision on the further appeal is made (62 Stat. 575; 5 U. S. C. Sup. II 868).

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